Town of North Attleborough
Charter Review Committee

Year 5 Report

June 9, 2025

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2025 Charter Review Committee Members

John Donohue - Chair, Melinda Bernado Cuerda - Clerk, Tasha Buzzell - Vice-Chair, David Sequeira, and Laura Wagner

Section 1: Introduction

The North Attleboro Charter Review Committee (the "CRC") was established in accordance with the Town's Charter (the "Charter"), adopted by voters in April of 2019.

The five member CRC is appointed by the Town Manager, and confirmed by the Town Council (the "Council").

For this year-five CRC, there were a total of seven people appointed to the CRC. Two left for personal reasons in October 2024 and the replacement members were confirmed by Town Council on 28 October 2024 and 13 January 2025, respectively

The original members of the year-five review CRC committee conducted its first meeting on June 27, 2024.

Initial meetings focused on development of a plan and process leading to this report. That plan, reflected in the sections below, involved gathering input through a series of meetings with department heads, board and committee chairs, the Town Manager, and the public.

Based on these interviews, our review of the Charter and the prior CRC report, and independent research, we identified several areas where we recommend specific changes for Council consideration. These are outlined in the Section 3: Recommendations and focus on improving the Charter's clarity, consistency, and alignment with current town practices. We also identified several recurring topics that do not require changes to the Charter but may merit attention through policy, process, or administrative improvements. These are outlined in Section 4: Observations. We include them here to support broader efforts to improve town operations and governance. The CRC offers this report for your consideration as a

reflection of the testimony from these constituents and stakeholders.

Section 2: CRC Mission

The Charter provides a clear description of the role and responsibilities of the CRC (§ 9.2). There was an initial review one year after charter approval. The subsequent reviews are to occur in years ending in five or zero.

This CRC completed and submitted this report to Council in 2025, in advance of the September 2025 deadline, prior to the seating of the new Council.

Section 3: Recommendations

Summary

Overall, the response to Charter, in relation to the previous form of governance, was positive. Department heads, elected officials, staff and board members noted that municipal governance is now more efficient and expedient than in the past.

The CRC has identified five where changes to the Charter would be beneficial to town governance. Supplemental information, where applicable, is included in the appendix section of this report.

Stipends

The CRC recommends reinstating stipends for elected positions on boards and commissions that meet at least twice per month. Supporters who gave testimony believe it will increase equity and remove barriers to participation in town governance. This also aligns with past town practices, since stipends were previously eliminated with the intent to restore them later. Due to the impact on the budget, the Town Council may want to establish an ad hoc committee to study how best to implement reinstating stipends. To support Council's possible consideration of how and whether to implement this change, the CRC drafted projected costs of different possibilities. See below and Appendix 1

Category	$25 per Mtg	$50 Per Mtg
Elected Officials, only	$13,325	$26,650

Boards, meeting 2x+, only	$14,750	$29,500
Total, combined	**$28,075**	**$56,150**

Board membership, total positions:

The CRC recommends that the Board of Health (BOH) members be increased from three to five members, as requested by the Board of Health Director, Anne Marie Fleming. With three members, any discussion between two members creates a quorum, which violates The Commonwealth of Massachusetts Open Meeting Law (M.G.L. c. 30A, §§18-25)Expanding the board eases this constraint and supports collaboration in BOH work.

Minor Charter edits:

Based on input from the Town Clerk, Pat McNielly, we recommend the following changes to improve clarity and consistency between existing laws and terminology throughout the Charter:

1. Section 2-4(b) is amended to change "fill a vacancy by the Town Council under this section" to "fill a vacancy by the Town Council under this subsection."

2. Section 3-1(a) is amended to change "Park Commission" to "Parks and Recreation Commission."

3. Section 3- 1(d)(2) is amended as indicated: If a vacancy occurs in the office and there is no available candidate to fill the vacancy in the manner provided in Subsection (a) (d)(1), above, the vacancy shall be filled until the next annual election by joint appointment of the Town Council ...

4. Section 5-8(b) is amended as indicated: "The Planning Board shall be responsible for administering the Subdivision Control Law, G.L. e.41, f§ 81A through 81Y MGL c. 41, 88 81K to 81GG ..."

5. Section 9-1(b)(iii) is amended as indicated: "... or otherwise as designated by ordinance bylaw."

Budget Cycle

The CRC recommends changing the timing of the joint meeting between Council and the School Committee, as outlined in § 6.2, from January (prior to the 15th) to February (prior to the 15th).

This suggestion was made to CRC and is worthy of consideration. In January, the budget projections are preliminary and based on developing information. Shifting the joint meeting to February would enable a more developed preliminary budget to be presented to the joint meeting.

In this revised approach, the Town Manager would first provide a general financial overview to only the Town Council in January. Then, in February, a joint meeting between the School Committee and Council would be held. At that meeting, the Town Manager would present the Town's financial condition, revenue and expenditure forecasts, and other relevant information needed to develop a coordinated budget. North Attleboro follows the Commonwealth of Massachusetts' budget timeline. According to M.G.L. c.n 44, § 32, the Town Manager must submit the budget to the Town Council within 170 days after the start of the state government's annual organization on January 1, setting North Attleborough's submission deadline at June 19. Therefore, we believe that shifting the joint meeting to February would remain in compliance with state law.

Licensing Appeals

The CRC recommends a specific change related to alcohol permitting and a broader assessment of the need for creating or documenting additional appeals processes for other licensing types. These recommendations aim to create a more consistent and accessible licensing process for applicants.

Alcohol License Appeals

We recommend that the Town formally adopt and incorporate the appeals process defined in M.G.L c.138 § 67 into the Charter.

Currently, the Charter does not define an appeals process for denied license applications. Under state law, denied applicants may appeal decisions involving alcohol licenses to the Alcoholic Beverages Control Commission (ABCC). Appeals must be filed

within 5 days of receiving the certified decision letter from the local licensing authority.

The CRC recommends specifying this appeals process in the Charter to improve clarity and transparency for applicants and to ensure consistent access to recourse for applicants who are denied.

Broader Licensing Processes Needs

Beyond alcohol permitting, the CRC recommends that the Town assess whether there are other types of license or permit types that would benefit from creating an appeals process or better articulating an existing one. This could involve:

1. Reviewing existing town licensing areas and practices
2. Identifying places where applicants lack a clear appeals route
3. Considering the development or adoption of appropriate appeals procedures

Write-in Candidates:

The CRC recommends adding language to the Charter regarding write-in candidates, under, Article III Elected officials, § 3.1 General Provisions. The 25 minimum vote requirement was in place under the previous form of government. Adding a minimum vote requirement accomplishes two objectives, 1) equity - ballot candidates are required to get a minimum of 25 voters' signatures on their nomination papers. Requiring the same threshold for write-in candidates ensures a fair standard and 2) legitimacy - without a minimum vote, individuals have been elected without actively seeking office, because they received a few unsolicited write-in votes. Also, in the April 2025 election several individuals received one or two write-in votes, which complicated vote-counting and made it more difficult to determine the official winners.

Language:

"e. Write-in Candidates. Write-in candidates are subject to all of the eligibility requirements of any elected position and are also required to receive a minimum of 25 votes. Candidates are required to notify the Elections Department of their candidacy."

Section 4: Observations

During our review, we identified several recurring topics that do not require changes to the Charter but may merit attention through policy, process, or administrative improvements. We include them here to support broader efforts to improve town operations and governance.

Town Elections

Election Date

Several individuals who testified to the CRC suggested that aligning local elections with state or federal elections could increase voter turnout. January 25, 2024 Research from the University of Chicago's Center for Effective Government supports this view, finding that moving local elections from off-cycle to synchronous with higher-profile elections can dramatically increase participation and lead to a more representative electorate. This research describes timing changes as one of the most effective reforms for boosting engagement. While the benefits are compelling, there may be significant administrative and legal hurdles to implementation of this change.

Election Cadence and Selection of Town Council President

During testimony, some individuals expressed concern that electing all Town Council members at once could lead to a loss of institutional knowledge. Others cited concerns about the method of selecting the Town Council President (TCP).

To understand these issues, CRC analyzed data from the Massachusetts Municipal Association (MMA) and municipal websites for 12 Massachusetts towns with a Council–Manager form of government (Appendix 2). These data indicate that North Attleborough's use of concurrent elections for two-year terms aligns with other municipalities. All towns with two-year terms use concurrent elections. However, North Attleborough's approach to selecting the TCP is an outlier. Most towns (9 of 12) have the council elect the TCP from among its members, while two place the position on the ballot. North Attleborough is the only municipality that assigns the role to the top vote-getter.

Procurement Process

The CRC interviewed multiple department heads who spoke about their experience with the procurement process. While department heads familiar with procurement under RTM expressed that the process is now more streamlined, they also noted challenges related to systems integration, legal turnaround time, progress tracking, and their own familiarity and expertise in procurement.

To understand how these issues are handled in other towns, CRC conducted research into procurement practices in comparable towns across Bristol, Norfolk, and Plymouth counties. Appendix 4 includes a summary of findings. We found that several municipalities have dedicated procurement roles to support and oversee purchasing operations. The procurement roles, 13 towns in Norfolk County, 5 in Plymouth County, and 4 in Bristol County, help improve compliance, streamline processes, and serve as expert resources for municipal departments.

Given this context, the CRC suggests that the Town consider whether creating a dedicated procurement role under the Town Manager would further improve the existing procurement process. We believe it has the potential to improve the clarity and efficiency of the process, reduce administrative burden on department heads and enhance fiscal oversight.

Strong Chief Statute

The year-one CRC report lists the Strong Chief Statute (Issue 5, pg. 15) as a concern. The year-five CRC followed up on this concern and discovered that Strong Chief Statute is included in the town bylaws (§ 60-2 Powers of Chief of Police). In addition, Chief McQuade noted that this condition is included in his contract, as well.

Section 5: Conclusion

The year-one CRC report did not not make any recommendations for changes due to the opinion that some of the issues discussed during that initial evaluation period, may work themselves out. Now, at the year-five review, a few issues remain that we

believe require attention. These are the items listed in, Section 3: Recommendations.

Overall, support for the Charter and the new form of town government established in 2019, remains positive. The current system was described as efficient and responsive and that it meets the needs of the town. There is always room for improvement, however, and systems should evolve at the same rate as the needs of the town. The five year evaluation of the Charter will continue to contribute to the assessment efforts.

Respectfully submitted by the members of the CRC June 9, 2025

Section 6: Methodology

Overview

The CRC reviewed both the Charter Commission's guiding principles, developed in 2017 and the Year One Report issued by the previous CRC, which was charged with reviewing the town Charter after it had been in place for one year. The priorities and concerns identified in these two resources guided the process and questions posed during the year five review. The overall priorities are summarized as follows:

1. Collaborative working relationship between town departments which optimizes services
2. Public access to municipal government services by residents should be easy to navigate
3. Town Manager role (executive branch) ensures management of resources from a town-wide, long term perspective.
4. Annual budget process should be easy to navigate
5. Clarity of roles and expectations for elected and appointed officials
6. Prioritize economic development. The charter should be a resource to help meet this priority, not hinder it.
7. Efficiency and timeliness is prioritized in town governance
8. Qualified people are serving in key appointed positions
9. Resident engagement in elections and town governance

Interviews

The CRC extended invitations to all town officials; staff, elected and volunteers, as well as residents, to provide feedback about the Charter. Twenty-five town officials participated, as well as one resident. We scheduled a resident forum on 27 March, which was widely advertised, but no residents attended. We also allowed for resident comment at each CRC meeting, but only one resident participated.

Overall, the CRC completed our process over 19 meetings. The following town officials and residents participated:

1. Board of Health, Director: Anne Marie Fleming
2. Communications & Information Officer: Taylor O'Neil
3. Council Members, John Costello, Dan Donovan, Darius Gregory, Mark Gould, Patricia St. Pierre
4. DPW Director: Mark Hollowell
5. Elections Coordinator: Pat Dolan
6. Electric Commission Board, Vice Chair: Steve Cabral
7. Fire Chief: Chris Coleman
8. IT Director: Keith Mueller
9. Library Director: Debbie Clifton
10. Park Commissioner: John Ruppert
11. Parks & Recreation Director: Steve Carvalho
12. Planning Board, Chair: Marie Clarner
13. Planning Board, Vice Chair: Bill Blais
14. Police Chief: Richard McQuade
15. School Superintendent: Dr. John Antonucci
16. Town Clerk: Pat McNielly
17. Town Council, President: Justin Paré
18. Town Council, Vice President: John Simmons
19. Town Manager: Michael Borg
20. Town Planner: Gil Hilario
21. Town Treasurer & Collector: Chris Sweet
22. Resident: John Casey

In addition to the town officials listed above, Lauren Goldberg, esq., KP Law, gave a presentation on Town Charters to the CRC members. The CRC also met with Mark Fisher, the Charter Committee Chair in 2018-2019.

Determining the Subject Areas to Include in the Report

The information and feedback gathered from the interviews was then grouped into general categories. The categories were collectively agreed upon by the CRC and were weigh using on the following criteria:

1. **Interviewee:** Comments made by a person with direct knowledge were taken into consideration, more so than a person without direct knowledge, e.g., the Elections Coordinator comments regarding potential election process changes vs someone who had an opinion, but no direct knowledge regarding the impact.
2. **Impact:** When a suggestion was made that had the potential for a positive impact, the CRC both researched what was happening in towns similar to ours as well as spoke to the parties involved that would be directly impacted. This was done to identify unintended consequences whenever possible.
3. **Common Themes:** An issue that was brought up by multiple people
4. **Legality:** Some suggestions for change were rejected due to conflict with state law.

Section 7: Appendices

Appendix 1: Stipends, Reference Information

Town	Form of Govt	Size of Council	Pop. 2025 Proj.	FY25 Budget	Stipends
Amherst	Council - Mgr	13	40,584	$102.7 mm	● Town Council ○ President: $1,000 ○ Members: $833.33 ● School Committee ○ Chair: $333.33 ○ Members:$250.00 Reimbursement offered to all elected officials for child care
Barnstable	Council - Mgr	13	50,153	$275.78 mm	● Only provides stipends to council

					● Council President - $12,000 ● Vice President - $10,000 ● All others - $8,000 In addition, the Council President receives a $2,800 expense stipend and all other councilors receive $2,200 expense stipend. **Total stipend budget is $139,200.**
Bridgewater	Council - Mgr	9	29,023	$76 mm	● Elected Town Clerk – stipend of $900 annually, with annual pay $89,638 ● Appointed Board of Assessors stipend of $500 annually (3 members)
East Longmeadow East Longmeadow, Cont.	Council - Mgr	7	16,460	$68.96 mm	<u>Elected:</u> ● **Town Council** ○ President: $7500 ○ VP: $6,500 ○ Member: $5,500 ● **School Committee** ○ Chair: $2,350 ○ Vice Chair: $2.050 ○ Members: $2,050 <u>Appointed:</u> ● **Board of Assessors** ○ Chair: $1,500 ○ Clerk: $1,000 ○ Member: $1,000 ● **Planning Board** ○ Chair: $1,500 ○ Vice Chair: $1,00 ○ Members: $1,00 ● **Board of Health** ○ Chair: $1,500 ○ Vice Chair: $1,00 ○ Members: $1,00
Franklin	Council - Mgr	9	33,251	$150.1 mm	● None
North Attleboro	Council - Mgr	9	31,009	$109.2 mm	● None
Randolph	Council - Mgr	9	34,339	$118.1 mm	● None

Watertown	Council - Mgr	9	35,348	$203.98 mm	• Council president, $12,500 • Council member, $8,900

Budget Impact: Elected Officials Only

Position	Members	# Mtgs	# mtg x $25	$25 per mtg x # members	# mtg x $50	$50 per mtg x # members
Town Council	9	21	$525	$4,725	$1,050	$9,450
School Committee	7	12	$300	$2,100	$600	$4,200
Board of Public Works	5	20	$500	$2,500	$1,000	$5,000
NA Electric Board, (BOLEC)	5	20	$500	$2,500	$1,000	$5,000
Parks & Rec	5	12	$300	$1,500	$600	$3,000
		Totals		**$13,325**		**$26,650**

Budget Impact, Board that meet at least 2x monthly

Position	Members	# Mtgs	# mtg x $25	$25 per mtg x # members	# mtg x $50	$50 per mtg x # members
Planning Board	5 Plus 1 alt	20	$500	$3,000	$1,000	$6,000
Board of Health	3 * increase to 5	20	$500	$2,500	$1,000	$5,000
Conservation Commission	7	20	$500	$3,500	$1,000	$7,000
Election Commission	5	20	$500	$2,000	$1,000	$4,000
Board of Assessors (meets wkly)	3	50	$1,250	$3,750	$2,500	$7,500
			Totals	**$14,750**		**$29,500**

Appendix 2: Massachusetts Municipalities Data, Town Elections Reference

This table summarizes 2025 data from the Massachusetts Municipal Association's Data Hub and local municipal websites on election terms (concurrent vs. staggered) and the method of Town Council President election in municipalities with a Council-Manager form of government (n=12).

Title	form of government	incorporation date	chief municipal official	legislative body	council size	TC term (years)	term type	citation	TCP is elected by	citation
Amherst	Council – Manager	1775	Town Manager	Town Council	13	2	concurrent	Amherst Home Rule Charter	Council	Amherst Home Rule Charter
Barnstable	Council – Manager	1638	Town Manager	Town Council	13	4	staggered	Town of Barnstable, MA Legislative Branch	Council	Town of Barnstable, MA Legislative Branch
Bridgewater	Council – Manager	1656	Town Manager	Town Council	9	3	staggered	Town of Bridgewater	Council	Town of Bridgewater
Chelsea	Council – Manager	1739	City Manager	City Council	11	2	concurrent	Code of Ordinances | Chelsea, MA | Municode Library	Council	Code of Ordinances | Chelsea, MA | Municode Library
East Longmeadow	Council – Manager	1894	Town Manager	Town Council	7	3	staggered	Town of East Longmeadow Home Rule Charter	Council	https://ecode360.com/attachment/EA3598/EA3598-Charter.pdf
Franklin	Council – Manager	1778	Town Administrator	Town Council	9	2	concurrent	Town of Franklin, MA THE TOWN COUNCIL	Council	
North Attleborough	Council – Manager	1887	Town Manager	Town Council	9	2	concurrent	North Attleboro	Voters -- highest vote-getter	North Attleboro
Palmer	Council – Manager	1775	Town Manager	Town Council	7	3	staggered	Legislative Branch - Town of Palmer, MA	Council	Legislative Branch - Town of Palmer, MA
Randolph	Council – Manager	1793	Town Manager	Town Council	9	2	concurrent	Town of Randolph, MA LEGISLATIVE BRANCH	Council	Town of Randolph, MA LEGISLATIVE BRANCH
Southbridge	Council – Manager	1816	Town Manager	Town Council	9	3	staggered	Town of Southbridge, MA THE TOWN COUNCIL	Council	
Watertown	Council – Manager	1630	City Manager	City Council	9	2	concurrent	City of Watertown, MA LEGISLATIVE BRANCH	Directly by voters in election	City of Watertown, MA LEGISLATIVE BRANCH
Winthrop	Council – Manager	1852	Town Manager	Town Council	9	2	staggered	Winthrop	Directly by voters in election	Winthop

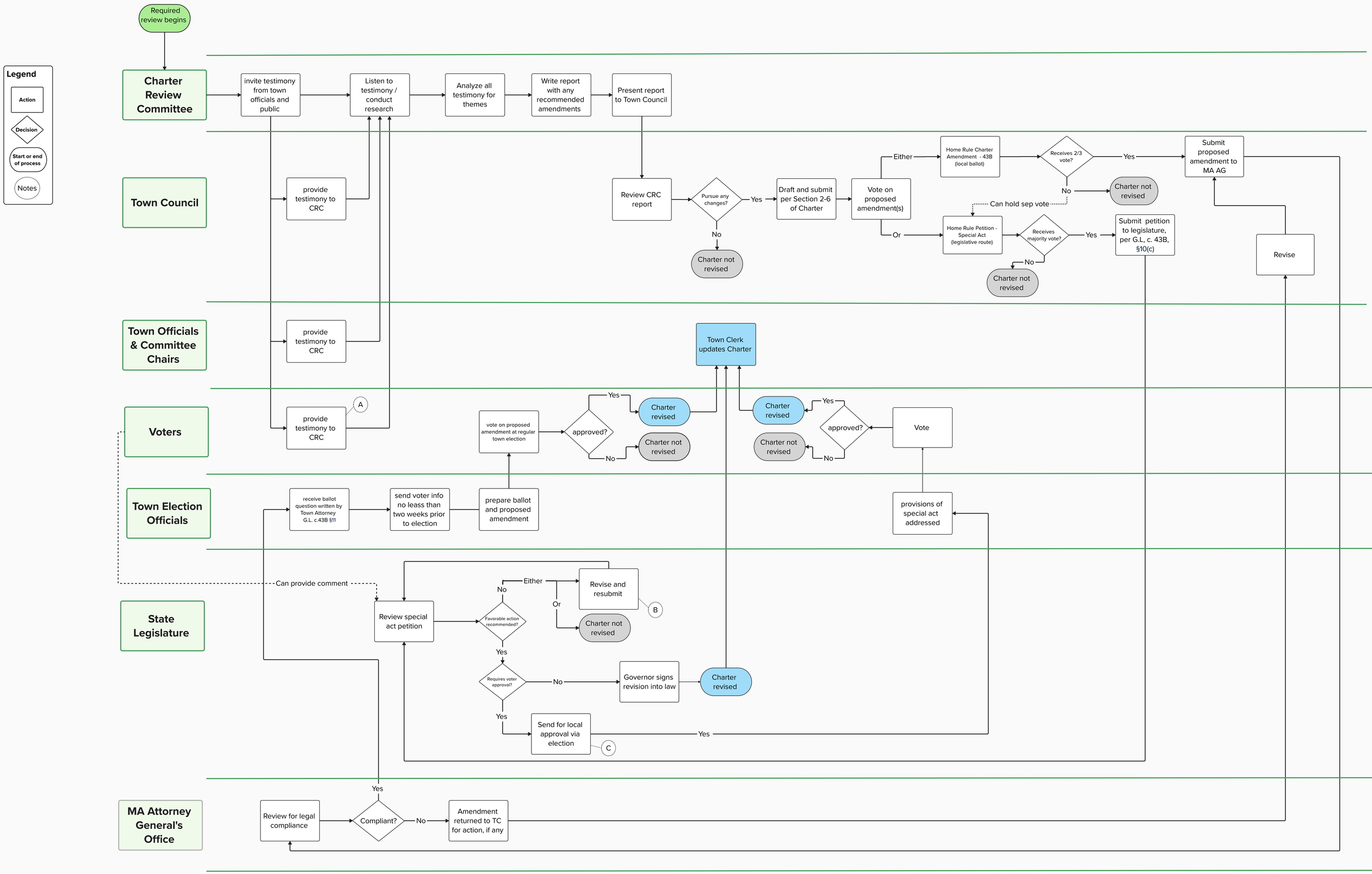
Appendix 3: Charter Amendment Process

The CRC created this reference flow chart to support the report. It may also provide helpful context for Town Council or others. It is not an official source and should be updated as new information becomes available. For legal questions, please consult counsel. Link to Flowchart:and included below

Charter Amendment Process

Objective: provide a general overview of charter revision process for informational purposes, related to 2025 CRC responsibilities

Note: This flowchart is a reference, not an authoritative source. It's a working document that should be revised based on new information. Any questions should be directed to counsel.



A Voter input is not required by law, but Counsel recommends doing doing this early in process and again prior to submitting report to Town Council.

B Revisions are often handled by State Rep or Senator with their respective Counsel. It may or may not go back to Town Council, depending on type of revision.

C There's complexity in this process and requirments may vary. If approved by voters. charter changes. If not approved by voters, there's no change to charter

Appendix 4: Procurement Research

The Charter Review Committee researched three counties to compare each City and Town regarding their respective process to procurement. The counties in which we received data from were Bristol County, Norfolk County and Plymouth County, respectively.

In our research we found that within all three counties, the Town Administrators/Assistant Town Administrator(s), Town Managers and Mayors all serve as their Chief Procurement Officers for their jurisdictions.
Furthermore, we found that Norfolk County with 13 out of 28 cities and/or towns currently have a position dedicated to the oversight of the procurement process.

Those positions are as follows:

1. Purchasing Contract and Procurement Administrator, Town of Braintree
2. Procurement Officer, Town of Brookline
3. Procurement Director, Town of Dedham
4. Procurement Administrator, Town of Foxboro

5. Procurement Officer, Town of Franklin
6. Procurement Officer, Town of Holbrook
7. Assistant Town Accountant/Procurement Officer, Town of Medfield
8. Assistant Director of Finance/Procurement Officer, Town of Needham
9. Procurement Officer, Town of Norwood
10. Procurement Officer, City of Quincy
11. Procurement Officer, Town of Stoughton
12. Procurement Officer, Town of Westwood
13. Contract and Purchasing Administrator, Town of Weymouth

In addition, we found that Plymouth County with 5 out of 25 cities and/or towns currently have a position dedicated to the oversight of the procurement process.
Those positions are as follows:

1. Procurement Officer, City of Brockton
2. Procurement Officer, Town of Duxbury
3. Procurement and Contracts Manager, Town of Hingham
4. Purchasing and Procurement Director, Town of Marshfield
5. Procurement Officer, Town of Plymouth

Lastly, we found that Bristol County with 4 out of 20 cities and/or towns currently have a position dedicated to the oversight of the procurement process.
Those positions are as follows:

1. Purchasing Director, City of Attleboro
2. Purchasing Director, City of Fall River
3. Purchasing Director, City of New Bedford
4. Procurement Officer, City of Taunton

Benefits of a Procurement Officer

1. **Cost Savings**: Seeking and securing the lowest prices and optimizing spending.
2. **Compliance with Regulations**: Ensure that all purchases adhere to M.G.L and local by-laws, including open and transparent bidding process.
3. **Fair and Competitive Bidding**: Ensure that all procurement processes are fair,

open and competitive.

4. **Improved Quality**: Improve the quality of supplies and services by ensuring that vendors meet specific standards and/or requirements.
5. **Fiscal Responsibility**: Ensure that all public funds are spent efficiently, ethically and in the best interest of the community.
6. **Risk Management**: Mitigate risks associated with contractual obligations between Town and Contractor.
7. **Expert Resource**: Serve as an immediate point-of-contact for all Town and School Departments, providing guidance with procurement policies and procedures.
8. **Record Keeping**: Ensure that vital records are maintained including bid documents, contracts and vendor performance.

The Town of North Attleborough may benefit from the model to incorporate a Procurement Officer that operates under the direct supervision of the Town Manager. The ideal Procurement Officer would serve as an expert resource to all Town and School Departments that focuses on contract provisions/requirements, develops and revises Town-wide procurement policies. In addition, the procurement officer would collaborate with Town Department Heads and Superintendent of Schools to dispose of town and school surplus supplies, vehicles and personal property in accordance with M.G.L. c. 30B and Town of North Attleborough by-laws.

Furthermore, the Procurement Officer should successfully obtain the Massachusetts Certified Public Purchasing Official (MCPPO) Designation that is widely recognized as an indication of an individual's knowledge of Massachusetts procurement laws and best practices.

Appendix 5: Charter Revision and Amendment Presentation

Lauren Goldberg, KP Law, 10/10/24 presentation to the CRC. Available below and at this link

CHARTER REVISION AND AMENDMENT

Town of North Attleboro

October 10, 2024

Presented by Lauren F. Goldberg, Esq.

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WHAT IS A CHARTER?

- A charter governs the form, structure and organization of government
- A charter is the "constitution" of the municipality, and takes precedence over local ordinances or bylaws, and in many cases, state law

WHAT IS A CHARTER?

- There are three basic types of charters:
  - Home Rule charters
  - Special act charters
  - "Plan" charters

- There is also a "standard" or statutory form of representative town meeting

NO CHARTER? WHAT GOVERNS?

- Only towns can operate without a charter
- They must follow the framework and rules established by the General Laws
- All bylaws adopted by a town must be consistent with state law
- Much of the law about form of government is found in G.L. c.40 and c.41

NO CHARTER?

- It doesn't mean that all towns without charters are the same – the law has built-in flexibility
- Examples of such laws include:
  - G.L. c.41, §1 - one or more collectors, unless the town votes to authorize the treasurer to act as collector;
  - G.L. c.41, 1B – change offices elected under G.L. c.41, §1 to appointed by vote of Town Meeting and an annual Town Election
  - G.L. c.43C – consolidated departments of finance, housing, and inspections

WHY HAVE A CHARTER?

- Alter application of state law with respect to:
  - Size of board of selectmen
  - Create town council
  - Create representative town meeting
  - Create position or define powers of town manager or administrator
  - Transfer power from board of selectmen or other statutory board or office to another entity, such as a town manager or other administrative staff
  - Professionalize certain staff
  - Coordinate operation of various departments

"PLAN" CITY CHARTERS

- Prior to 1966, towns could create a city form of government by adoption of one of the "Plan" forms of government found in G.L. c.43C.
- These forms included options such as City Council with separately elected Mayor; City Council with Mayor elected from among Council; City Council and City Manager
- After passage of the Home Rule Amendment to the Massachusetts constitution, these plans are no longer available to be accepted, and cities with such Plans must amend under G.L. c.43B

HOME RULE AMENDMENT

- In 1966, the state adopted the Home Rule Amendment to the Massachusetts Constitution
- The amendment allowed a city or town to make changes to its form of government without action by the state legislature
- A city or town may elect a charter commission to adopt or make significant revisions to a charter or make smaller scale amendments to an already existing charter

KP | LAW

HOME RULE AMENDMENT

- The Home Rule amendment authorizes all cities and towns to use its procedures to amend special acts adopted prior to the adoption of the amendment, as well as to amend "Plan" forms of government
- The Home Rule amendment also reserves to the General Court the ability to pass laws relative to a single city or town

HOME RULE AMENDMENT

- A special law applicable to a single town can be requested either:
  - (1) on petition filed or approved by the voters of a town or the town meeting of a town, with respect to a law relating to that town; (a "Home Rule Petition") or
  - (2) by a two-thirds vote of each branch of the general court following a recommendation by the governor (a "Governor's Bill")

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HOME RULE PETITION

- Approval of a Home Rule petition, including for a Charter, requires only a majority vote of a town council at the local level
- An item for approval of a home rule petition may appear on a council agenda by any of the "normal" avenues for access to the council agenda

HOME RULE PETITION

- There is nothing in state law or the constitution that requires a Home Rule Petition to include a "voter acceptance" provision
- Many special acts can and do take effect upon approval by the General Court
- However, particularly when something "major" is being proposed, the Legislature typically likes to see such a provision included
- Whether to include the same in the home rule petiton itself is a policy decision

HOME RULE PROCEDURES ACT

The Home Rule Procedures Act, G.L. c.43B, was adopted to implement the Home Rule Amendment

There are two separate processes available under the Home Rule Procedures Act

(1) Elected charter commission

(2) "minor" amendment of an existing charter

HOME RULE PROCEDURES ACT - CONTENT LIMITATIONS

- Must be consistent with state law
- A charter adopted in this manner cannot:
  - Regulate elections
  - Levy, assess or collect taxes
  - Borrow money or pledge credit of municipality
  - Dispose of park landGovern civil relationships (such as those between landlord and tenant)
  - Define and punish a felony, or impose imprisonment as a punishment

HOME RULE PROCEDURES ACT

- Charter Adoption or "Major" Charter Revision

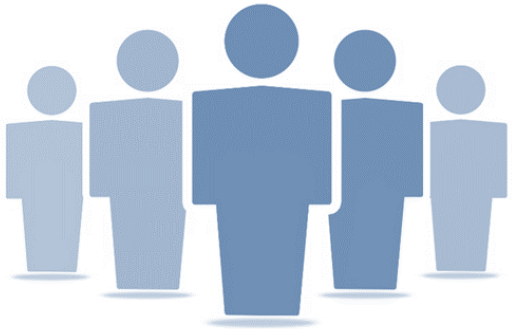
Involves the election of a nine-member charter commission, holding of at least one public hearing, preparation of a preliminary and final report, a mailing to all registered voters in the town, and a ballot question

- Charter Amendment or "Minor" Charter

Revision involves approval of the amendment by a 2/3 vote of a town council <u>and</u> approval by the voters at an election

HOME RULE PROCEDURES ACT - ADOPTION AND "MAJOR" AMENDMENTS

A "major" amendment is a revision to a charter that relates to the "composition, mode of election or appointment, or terms of office of the legislative body, the mayor or city manager, or the board of selectmen or town manager"



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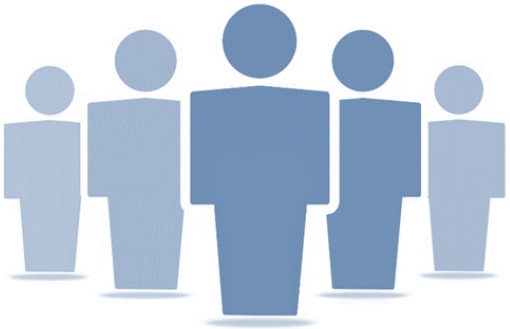
HOME RULE PROCEDURES ACT - ADOPTION AND "MAJOR" AMENDMENTS

- Only an elected charter commission may recommend such matters <u>under G.L. c.43B</u>
- To create an elected charter commission, a petition <u>must</u> be circulated on a particular form prepared by the state
- The petition must be signed by no less than 15% of the registered voters of the municipality as of the last state election



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HOME RULE PROCEDURES ACT – ADOPTION AND "MAJOR" AMENDMENTS

- Preliminary report sent to Attorney General and DHCD, printed in a newspaper
- Within 45 days after publication, hold another public hearing; Attorney General opinion as to the consistency of the proposed charter or revision with state law and the constitution
- Within 18 months after election, commission submits final report, which must include the text of the charter, and copies sent to Attorney General, and EOHLC
- Presented to voters at next election at least 90 days out from council vote submitted to Attorney General
- ***No later than two weeks prior to the election, the report must also be sent to the residence of each registered voter in the municipality***

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HOME RULE PROCEDURES ACT – "MINOR" AMENDMENTS

- May be "proposed" or "suggested"
- Requires approval by a 2/3 vote of a town council
- Proposed amendment is then forwarded to Attorney General and EOHLC
- If Attorney General finds it is consistent with state law and the constitution, the order becomes effective 30 days after submission
- Question to approve the same must appear on the ballot at the next regular election occurring at least 90 days after submission to Attorney General
- ***No less than two weeks prior to election, proposed amendment must be forwarded to all registered voters in the municipality***

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HOME RULE PROCEDURES ACT – "MINOR" AMENDMENTS

- A charter amendment article may be "proposed" by vote of the town council
- A charter amendment article may be "suggested" by a single member of a town council, or by petition in accordance with G.L. c.43B, §15
- If an article is "proposed" by the town council , no hearing is required
- If an article is "suggested", a hearing process is implicated

HOME RULE PROCEDURES ACT – "MINOR" AMENDMENTS

- Within three months after filing of a suggested amendment, the town council must order a public hearing
- The hearing must be held within four months of the filing, for which notice appears in a newspaper at least seven days prior
- Final action on such a suggested amendment shall be taken by the council in the normal course not later than six months after such filing, provided that at any time after the public hearing

PRACTICAL ISSUES

- Appointed charter or government structure review committees
- Scope of authority
- Effect of recommendations
- Role in preparing, presenting and "defending" proposed amendments
- Relationship to appointing authority, legislative body, and role if amendments are approved

PRACTICAL ISSUES

Campaign Finance Law and State Ethics Commission implications concerning use of municipal resources and ability of elected and appointed officials and staff to act and speak with regard to such a proposal when it is pending before:

- Executive branch
- Legislative branch
- Voters of the municipality at election

PRACTICAL ISSUES

- One of goals of charter is to change relationship between executive and administrative officers with respect to:
  - Appointment and removal authority
  - Supervisory authority
  - Coordination of municipal government functions, particularly with respect to personnel policy and procedures
  - Contract negotiations and award of contracts
  - Jurisdiction over rental, use and maintenance of municipal buildings

PRACTICAL ISSUES

- Another goal is generally to establish relationship between executive and administrative officers with respect to:
  - Procurement duties
  - Financial functions
    - Annual operating budget
    - Capital budget
    - Signing of payroll and other warrants for payment
    - Coordinate or direct litigation and use of legal counsel

PRACTICAL ISSUES

Government Review Process

- Will process include full review of charter, review to determine whether parts of charter are working or not working, whether new provisions are needed, and, will committee hear from:
  - Municipal officials, appointed and elected
  - High level administrative staff, and other employees
  - Established interest groups
  - General public

PRACTICAL ISSUES

- Even if significant changes are not needed or wanted, a charter review is a good excuse to clarify ambiguous language, and address gender, numbering, and grammatical issues
- Charter review committees and charter commissions are subject to the Open Meeting Law, Conflict of Interest Law and Public Records Law, and care must be taken to comply with the same, particularly if subcommittees are tasked with specific projects

PRACTICAL ISSUES

How will the committee communicate what its doing?

- Notice to the press
- Posting on municipal website
- Posting notice on local cable television station
- Working with local public and private groups

PRACTICAL ISSUES

- Government Review Process
  - Questions may include:
    - What's working and what's not working?
    - Review operational issues – who has what responsibility?
    - Are there proper checks and balances?
    - Who is responsible to who?
    - Who can make policies?
    - Who makes personnel decisions?
    - Who is appointed and who is elected?
    - Who can be removed, and by whom?

TRENDS

- Name of chief executive (Select Board; Selectboard; Executive Board; etc.)
- Consolidation of financial functions under Finance Director
- Chief administrative officer with independent authority over hiring and firing of employees
- Broad outline of budget process
- Changing of certain positions and boards from elected to appointed
- Authoring chief administrative officer to sign warrants for payment
- Consolidation of like functions for administrative purposes – department of public works, land use boards department
- Allowing transfers between line items by financial staff

SUMMARY

- Remember that there is no easy solution – each municipality is different, and there is no "cookie cutter" solution
- Examples from other municipalities may be a good starting point, but must be tailored to meet each municipality's unique history, culture, and goals

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