

Town of North Attleborough

Charter Review Committee

Year 1 Report

June 9, 2021



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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.

As stipulated by the Charter, each of the five members of the CRC were appointed by the Town Manager then confirmed by the Town Council. The fifth and final appointment to fill the CRC was approved by the Town Council on September 14, 2020.

With a full committee appointed, the CRC conducted its first meeting on September 29, 2020.

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.

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 Charter Review Committee, as follows:

SECTION 9-2. CHARTER REVISION OR AMENDMENT

(a) In General. The Charter may be replaced, revised or amended in accordance with any procedure made available by Article LXXXIX of the Amendments to the Constitution and any general or special law enacted to implement the constitutional amendment.

(b) Periodic Review: Charter Review Committee. There shall be a Charter review committee of five voters appointed for three-year rotating terms.

(1) Duties.

(i) The Charter Review Committee shall study the Charter and implementation thereof and make a report with recommendations for revisions, if any, to the Town Manager and Town Council in each year ending in five and in zero, and more often as it deems necessary and appropriate. Notwithstanding anything in this paragraph to the contrary, however, the first committee appointed after the effective date of this Charter shall provide a report no later than 12 months after its appointment.

(ii) Should a free petition or initiative petition be filed with respect to an amendment to the Charter, it shall be referred by the Town Council to the Charter Review Committee for review and recommendation.

The Town Council that was elected under the new form of government was still sitting during the course of the CRC's meetings and reviews. In order to provide this Report to that particular Town Council, we completed this report in advance of the September 2021 deadline for consideration before the next group of elected members is in place.

Section 3: Process and Methodology

Charter Commission Core Issues

In 2017, the Charter Commission developed core issues and guiding principles that were utilized and incorporated into the formulation of the new Charter. In order to provide form to qualitative information gathering and provide continuity of concept, the CRC agreed to use the Charter Commission's guiding principles to guide discussion with interviewees and review progress towards objective goals. The Charter Commission's 12 Core Issues and Guiding Principles are as follows:

1. Assets and Positive Attributes of the Town that Should be Retained

- Community involvement in boards and committees
- Volunteerism by the public
- Voluntary collaboration between departments and people
- People have proven through this process that they have the ability and desire to make change
- Deliver and maintain sound infrastructure and related services
- Maintain the title and atmosphere of a "Town"

2. Lack of Accountability and Central Authority

The mission and responsibility of many elected and appointed officials and government bodies are not properly spelled out and there is no central position or government body that has the authority to hold the various elected and appointed officials and government bodies accountable on a day-to-day basis.

3. Budget Process is cumbersome and too difficult to deal with and understand

There are too many layers of approval and opportunities for amendment so that no one ends up having ownership of the budget. This results in a problematic, short-term development process and the perception that it is inadequate to foster long-term financial planning. This creates further confusion and frustration in relaying information and affecting the participants' ability to adequately perform a budget review.

4. Lack of Centralization

Our form of government, with many independent departments, gives the residents the feeling that it is challenging to deal with their municipal government. Best practices are difficult to migrate from one department to another and it is very difficult to develop and implement a cohesive and an integrated course of action throughout the various government entities.

5. The Difficulty in dealing with municipal processes

While many of our departments voluntarily work cooperatively to assist people in dealing with municipal processes, there are no codified assurances this approach will be followed in the future.

6. Perceived Conflict of Interest with elected and appointed officials serving in the Legislative Body

Some residents have expressed a perception that elected and appointed officials should not serve on the Town's legislative body because they may have difficulty in separating the needs of their individual departments from decisions relative to the overall good of the Town.

7. Lack of Economic Development

The financial stability of the Town is dependent on maintaining a healthy balance between the tax burden placed on the residents and commercial property owners. This means that there must be a balance between all of these areas. The Town requires growth in its tax base to offset the inflationary push on the Town's operating expenses and to allow for proper maintenance of facilities and infrastructure. Unfortunately, these goals are not being met.

8. The challenge of potentially not having qualified candidates for critical elected positions

The Town should not take the risk of hoping that qualified candidates will volunteer to wage a political campaign for critical positions that should be filled by personnel with specific and sometimes certified qualifications.

9. Factionalism and lacking a unified Town Vision

Our silo form of government breeds divergent interests that fosters a lack of coordinated goals and inconsistent prioritization of activities, resulting in too many dis-synchronized agenda and priorities.

10. Lack of government flexibility and ability to deal with issues in a timely manner

Our structure of government inhibits its ability to properly respond to the non-emergency needs of its residents in a timely, effective and efficient manner or address changing needs as new challenges develop in the future.

11. Legislative Body and Process

The structure of and process established and followed by the RTM is cumbersome, overly time-consuming and often makes it difficult to properly educate the body on ongoing municipal issues on which it must vote.

12. Voter/Resident Apathy

Over the past 10 years, only 44% of the elections for various boards, commissions and positions (except RTM) have had contested races. On seven separate occasions, there were not enough candidates to fill the number of open seats. During that 10-year period, RTM seats were only filled through the election process 62% of the time. The lack of contested races may be a contributing factor to the low voter turnout the Town has been experiencing.

Questions to Respondents : Obtaining information and feedback

The CRC extended invitations to all department heads, board and committee chairs, the Town Manager, and the public. Members of town government received a list of questions and talking points with the invitation, each reflective of one of the 12 Core Issues and Guiding Principles, as follows:

1. Has the Charter sufficiently provided the structures necessary to hold the various elected and appointed officials and government bodies accountable on a day-to-day basis?

2. Has the Charter resulted in improved centralization of authority over town departments?
3. Has the Charter sufficiently met the objective of diminished factionalism and establishment of a more unified vision?
4. Has the Charter sufficiently simplified the annual budget process?
5. Has the Charter improved the experience of those dealing with the municipal government? Do you regularly receive feedback from town residents or individuals whom you serve? Is the feedback solicited actively or passively received as provided? How is that feedback handled/managed/escalated, and does it lead to improvements?
6. Has the Charter sufficiently addressed the perception of a conflict of interest arising from elected and appointed officials serving on the town's legislative body?
7. Has the Charter sufficiently addressed the need for more economic development in town?
8. Has the Charter made municipal government more flexible and agile in terms of responding to issues in a timelier manner?
9. Has the Charter made the Legislative body less cumbersome and has that improved its performance in dealing with issues under its jurisdiction?
10. Are there any other areas of the Charter you would like to offer comment on?

Additionally, based on their specific role, each person who appeared before the CRC was asked a series of supplemental questions, as follows:

BOARD & COMMITTEE CHAIRS:

1. Has your board changed from Elected to Appointed?
2. If yes, do you feel that change has been positive or negative?
3. Does the Charter clearly define your relationship to your Department Head and to the Town Manager?
4. Specific to your role, is there anything you wish the Charter did differently?
5. Is there anything else you'd like to tell us?

TOWN COUNCIL PRESIDENT:

1. How has the reality of the Town Council been compared to your expectations? More or less work, about what you thought, or something else?
2. Does the Charter clearly define the role of the Town Council?
3. Does the Charter clearly define your role as President of the Town Council?
4. Does the Charter clearly define your relationship to the Town Manager and to other town employees?
5. Specific to your role, is there anything you wish the Charter did differently?
6. Is there anything else you'd like to tell us?

TOWN MANAGER:

1. Does the Charter clearly define your role as Town Manager?
2. Does the Charter clearly define your relationship with the Town Council?
3. Does the Charter clearly define the relationship between you, Boards and department heads?
4. Specific to your role, is there anything you wish the Charter did differently?
5. Is there anything else you'd like to tell us?

ASSISTANT TOWN MANAGER:

1. How did your role change from Town Administrator to Acting Town Manager?
2. In what ways were your daily activities different due to the Charter?
3. Do you feel that the changes have been positive or negative?
4. How would you describe the budget process under the Charter in relation to the old form of government?
5. Specific to the transition period, is there anything you wish the Charter did differently?
6. Is there anything else you'd like to tell us?

DEPARTMENT HEADS:

1. Have your day-to-day responsibilities changed due to the Charter?
2. If yes, do you feel that the changes have been positive or negative?
3. Does the Charter clearly define your relationship to your Board and to the Town Manager?
4. Has the Charter changed your interaction with other departments?
5. Specific to your role, is there anything you wish the Charter did differently?
6. Is there anything else you'd like to tell us?

Summary/Overview

Interviews Conducted

The following members of town government accepted and appeared before the CRC to provide information:

<u>Name</u>	<u>Title</u>
Michael Borg	Town Manager
Michael Gallagher	Assistant Town Manager
Keith Lapointe	Town Council President
John Reilly	NAPD chief
Christopher Coleman	NAFD chief
Stephen Carvalho	Park & Rec Director
Shannon Palmer	Conservation Administrator
Kevin Poirier	Town Clerk
Michele Bernier	Solid Waste Director
Linda Catanzaritti	Town Accountant
Anne Marie Fleming	Health Dept Director/Town Nurse
Martin Grealish	Park Commission chair
Brett Langille	Board of Electric Commissioners chair
Scott Holcomb	Superintendent of Schools
Michael Thompson	Board of Public Works chair
Mark Hollowell	Public Works Director
James McKenna	School Committee chair
Cheryl Smith	Assistant Assessor
Chris Sweet	Town Treasurer Collector
Peter Schiffman	NAED General Manager
Marie Clarner	Planning Board chair
Lyle Pirnie	Economic Development Director
Cathy Calicchia	Human Resources Director
Daniel Ouellette	Housing Authority Director

Justin Pare'	Town Council Vice President
John Simmons	Town Councilor
Jo Ann Cathcart	Town Councilor
John Casey	Board of Electric Commissioners member
John Ruppert	Park Commission member
John Bellissimo	Board of Assessors chair
Paul Pinonnault	Board of Assessors member
Dan Knight	Resident
Patricia McNeilly	Assistant Town Clerk
Mike Lennox	Town Councilor

Section 4: Findings and Next Steps

Summary/Overview

In reviewing the information obtained from various sources, the CRC was careful to synthesize all information and look for common themes as well as department-specific issues. Readers will note that the CRC has identified issues but has not made specific reference to changes. This was a strategic, responsive decision to the position taken by most speakers that some issues may work themselves out over time, to allow the Town to continue to develop a new culture within the departments and relationships between reorganized structures in response to the new Charter. That development should be monitored and reconsidered in the next review cycle. Department-specific issues are mentioned with specificity to individual speakers or departments where applicable. Additional information may be available in the next review cycle, as the COVID-19 pandemic impacted how the public and even members of town government interacted with the Town and may not be entirely representative of the impacts of the Charter in an ordinary year. Overall, response to the Charter was supportive with concerns focused largely on interpretation of language in the Charter and not on impacts of the Charter *per se*. As a result, the CRC is not recommending any sweeping changes at this time.

Identified Issues

The CRC offers the following identified issues as a starting points for when development of the next CRC report begins, as scheduled, in 2025.

ISSUE #1: Town Council Elections and Leadership

A. Currently, Town Councilors are elected for a three-year term, with all council seats up for election in the same year. Mirroring similar debate and deliberation by the Charter Commission, concern was raised about whether this could cause a significant upheaval in town government if all councilors were unseated and/or chose not to run for re-election in a given year. Consideration may be given to staggered terms, taking care to avoid any off-years where there are no elections to ensure voter engagement on an ongoing basis.

B. Currently, Town Council President is chosen based on the highest votes received in a given election. Consideration may be given to whether there should be a ranked-choice vote by the public on a yearly basis specific to the appointment of Town Council President. This ranked-choice vote would be essential in the case of staggered-term election cycles. Allowing the community to select its highest-ranking elected official is important for community and voter engagement as much as accountability.

ISSUE #2: Town Council Role and Responsibility

Anecdotal and hypothetical examples were provided to reflect the extent to which the spirit of the Charter has been adopted by members of Town Council. The following examples are offered as a matter of guidance and opportunistic feedback received from constituents and stakeholders and are in no way suggestive of non-adherence with the provisions of the Charter.

A. Concern was raised that having a multitude of subcommittees can slow down progress towards resolution of issues and may in some ways drift back to the methods used by the old form of government. While intensive and in-depth consideration of certain issues may be necessary to distill information for the full Council, the Council should be cautious of over-use or dependence on repeated use of focused subcommittees. Consideration could be given to requiring certain criteria (i.e. a dollar figure or other similar criterion) as a threshold inquiry before creation of a subcommittee to force consideration of necessity and impacts on public perception of efficiency and transparency. These subcommittee meetings create a significant time obligation for the town accountant and department heads without a clear identifiable benefit in some instances.

i. The Town Economic Development Subcommittee is redundant to the responsibilities of the Town Manager's office, includes a dedicated Economic Development Director. This should be monitored to ensure that the subcommittee is not interfering and remains focused on issues within their own set of obligations.

B. Several interviewees suggested the rules regarding what is referred to the finance subcommittee could be revised or softened somewhat, to maintain the high level of scrutiny for use of taxpayer funds but also promoted operational efficiency.

C. A few speakers suggested there should be term limits. This should be monitored and reconsidered.

ISSUE #3: Dual Reporting Positions

Regarding reporting authority of department heads to town manager and/or also an elected board, one interviewee posited that a member of the Charter Transition Committee had inaccurately explained the reporting responsibilities for department heads. Department heads believed based on this explanation that they answer both to their boards and the town manager. This had caused some initial confusion that appears to be working itself out, but consideration could be given to whether changes need to be made to language in the Charter to memorialize the correct understanding in order to preserve or correct institutional knowledge rather than rely on the precedent that is being developed now. The issue should be reviewed in the next reporting cycle to monitor for continued difficulty in this area. Concern is raised regarding the efficacy of elected boards that do not have managerial capacity for the department that they serve and whether this will affect willingness to campaign and serve in these capacities; consideration may be needed about changing to appointed boards.

ISSUE # 4: School Department budgets and procurement

A. Town Treasurer, Christopher Sweet, raised concern that the School Department has not disclosed the “granular details of the school budget” to the town side of government. Then-Chair of the School Committee, James McKenna, raised concern that the lack of disclosure is on the town side of government that does not disclose all available town financial resources. The Charter Commission had addressed this conflict over financial disclosure between the town side of government and the school side of government by placing a member of the Town Council on the School Committee as a non-voting member to facilitate opportunities for communication on this and other issues. Given upcoming staff changes, the issue of budget development should continue to be monitored for progress towards mutual and reciprocal cooperation.

B. Town Manager, Michael Borg, and Superintendent, Scott Holcomb, both presented to the CRC. Both Mr. Borg and Mr. Holcomb identified the Town Manager as the chief procurement officer for the town but noted that the Town Manager cannot, by law, make decisions regarding curriculum. Because procurement (purchasing) and curriculum (delivery of instruction using tools or technology that must be purchased) often overlap, delineating curriculum-based decisions from other types of procurement has led to some delays. The Town Manager’s office

and the Superintendent's office have both sought out legal advice to try to delineate rights and responsibilities under the new form of government and in light of laws of the Commonwealth and both ensured the CRC that they are working cooperatively to try to develop a system for procurement of curriculum items that will be consistent with the Charter's goal of transparency and efficiency. Given upcoming staff changes, this issue should be monitored for progress.

ISSUE #5: Strong Chief Statute, Additional consideration for these department heads

A. The Chief of Police specifically requested that the so-called Strong Chief Statute (G. L. c. 41 § 97A, hereinafter "the Statute") be adopted and incorporated by reference into the Charter. During his interview, Chief Reilly testified that it would be helpful to have this in place so that he could continue to work with the Town Manager during budget development. Upon review of the Statute, CRC Chair Tasha Buzzell contacted Chief Reilly for additional information because the Statute includes additional language beyond budget development. Chief Reilly explained that the Statute outlines the authority given to a police chief; some towns have not adopted this Statute, and individuals or entities outside of the Police Department then may attempt to run the police department to the Department's detriment. Chief Reilly's position is that the Police Department should be a-political and not managed by the Town but only by a Chief. The text of the Statute is as follows:

"In any town which accepts this section there shall be a police department established by the selectmen, and such department shall be under the supervision of an officer to be known as the chief of police. The selectmen of any such town shall appoint a chief of police and such other officers as they deem necessary, and fix their compensation, not exceeding, in the aggregate, the annual appropriation therefor. In any such town in which such appointments are not subject to chapter thirty-one, they shall be made annually or for a term of years not exceeding three years, as the selectmen shall determine, and the selectmen may remove such chief or other officers for cause at any time after a hearing. The chief of police in any such town shall from time to time make suitable regulations governing the police department, and the officers thereof, subject to the approval of the selectmen; provided, that such regulations shall become effective without such approval upon the failure of the selectmen to take action thereon within thirty days after they have been submitted to them by the chief of police. The chief of

police in any such town shall be in immediate control of all town property used by the department, and of the police officers, whom he shall assign to their respective duties and who shall obey his orders. Section ninety-seven shall not apply in any town which accepts the provisions of this section. Acceptance of the provisions of this section shall be by a vote at an annual town meeting.”

Consideration may also be given to incorporating by reference and adopting the identical statute as applies to fire chiefs: G. L. c. 48 § 42: “Towns accepting the provisions of this section and sections forty-three and forty-four, or which have accepted corresponding provisions of earlier laws may establish a fire department to be under the control of an officer to be known as the chief of the fire department. The chief shall be appointed by the selectmen, and shall receive such salary as the selectmen may from time to time determine, not exceeding in the aggregate the amount annually appropriated therefor. He may be removed for cause by the selectmen at any time after a hearing. He shall have charge of extinguishing fires in the town and the protection of life and property in case of fire. He shall purchase subject to the approval of the selectmen and keep in repair all property and apparatus used for and by the fire department. He shall have and exercise all the powers and discharge all the duties conferred or imposed by statute upon engineers in towns except as herein provided, and shall appoint a deputy chief and such officers and firemen as he may think necessary, and may remove the same at any time for cause and after a hearing. He shall have full and absolute authority in the administration of the department, shall make all rules and regulations for its operation, shall report to the selectmen from time to time as they may require, and shall annually report to the town the condition of the department with his recommendations thereon; he shall fix the compensation of the permanent and call members of the fire department subject to the approval of the selectmen. In the expenditure of money the chief shall be subject to such further limitations as the town may from time to time prescribe. The appointment of the chief of the fire department in any town or district having a population of five thousand or less may be for a period of three years.”

B. Currently, certain boards or committees require town residency in order to be involved, such as the traffic study committee. Some of these particular boards require the presence of the Chief of Police or Chief of the Fire Department because they overlap with issues that are under the purview of the Police and Fire Departments. If a Chief is not a resident of the town, he

must send a representative in his place who is a resident of the town, i.e. the Deputy Fire Chief. For the sake of efficiency, it would make sense to allow the Chief to attend regardless of residency.

i. A related issue was raised and does not fit well into another category. In some towns, employees of the town are considered vested community members who are then eligible to serve on specific boards. Eligibility could be considered to be extended to these vested community members for relevant boards that may be within their personal or professional expertise.

ISSUE #6: Allotments/budgets for Board of Assessors, Town Council, or other boards

Various interviewees referenced the personal expenses incurred in their roles, such as the document printing required to completed the work required as a member of the Board of Assessors. These items are not known to be reimbursable and are therefore incurred by the individuals serving in these non-compensated capacities. Consideration may be given to providing some amount of supplies, reimbursement, or a stipend to offset these expenses.

ISSUE #7: Town Council Communication with Town Manager Staff

Concern was raised that the following language in Section 2-5 paragraph (d)(2) may be seen as too restrictive and prevents any communication between members of the Town Council and the parties named: "(2) Officers and Employees. The Town Council shall deal with the officers and employees serving under the Town Manager solely through the Town Manager and the Council President and members of the Town Council shall not give any orders or directions to any such officer or employee, either publicly or privately." Consideration may be given as to whether this language can be clarified, or if expectations for communication will become part of institutional knowledge.

ISSUE #8

Concern was raised that the following section of the Charter is vague and does not identify mechanism of action. "SECTION 8-6 SUBMISSION OF OTHER MATTERS TO THE VOTERS - The Town Council may of its own motion submit to the voters at any regular or

special Town election for adoption or rejection any measure or non-binding public opinion advisory question." The term "any measure" is extremely broad. This should be monitored for review in the next cycle.

Section 5: Conclusion

As noted in the Summary / Overview section, the CRC has identified issues but has not made specific reference to changes, based on interviews, research, and deliberations of the CRC of the information provided. As noted throughout this document, this decision to identify but not make recommendations was a strategic, responsive decision to the position taken by most interviewees that some issues may work themselves out over time, to allow the Town to continue to develop a new culture within the departments, and to allow relationships between reorganized structures to continue to adapt in response to the new Charter. The CRC recognizes that additional information may be available in the next review cycle. This report is offered as a possible starting point for development of the next CRC report.

Overall, response to the Charter was clearly and overwhelming positive and supportive of the new form of government. In fact, of all the individuals to appear before the CRC, only two were critical of the Charter's implementation. At least one of these two individuals had actively campaigned in opposition of passage of the Charter in 2019.

As a result, the CRC is not recommending any changes at this time.

Respectfully submitted by the members of the CRC June 15, 2021.