



TOWN OF GROTON

173 Main Street
Groton, Massachusetts 01450-1237
Tel: (978) 448-1111
Fax: (978) 448-1115

Charter Review Committee

Peter S. Cunningham, *Chair*
Rebecca Weksner, *Vice Chair*
Mark W. Haddad, *Clerk*
Robert Collins, *Member*
Kristen Frank, *Member*
Brenden Mahoney, *Member*
Michael Sulprizio, *Member*

CHARTER REVIEW COMMITTEE MEETING

THURSDAY, NOVEMBER 7, 2024

AGENDA

SELECT BOARD MEETING ROOM

2nd FLOOR

GROTON TOWN HALL

4:30 P.M.

- I. Review Agenda for the Public
- II. Meet with Town Counsel – Discuss Charter Amendment Approval Process
- III. Discuss/Review Potential Amendments to the Charter
- IV. Finalize Public Meeting Notice for December 5, 2024 Public Hearing
- V. Approve Minutes – October 17, 2024 Meeting
- VI. Adjournment

Votes may be taken at any time during the meeting. The listing of topics that the Chair reasonably anticipates will be discussed at the meeting is not intended as a guarantee of the topics that will be discussed. Not all topics listed may in fact be discussed, and other topics not listed may also be brought up for discussion to the extent permitted by law.

Memorandum

TO: Groton Charter Review Committee
FROM: Brian R. Falk, Town Counsel
DATE: November 4, 2024
RE: Charter Amendment Options

This memorandum is in response to questions I received regarding the charge of the Charter Review Committee (the “Committee”), its scope of review, and options for advancing proposed charter amendments.

I. The Committee’s Charge:

As you know, the Groton Town Charter contains provisions requiring periodic review as follows:

Section 7-6: Periodic Charter Review

Not less than once in every 10-year period after the effective date of this charter, a charter review committee shall, by an affirmative vote of the majority of the full select board, be established to review this charter and report its recommendations to an annual town meeting concerning any proposed amendments that the committee may determine to be necessary or desirable. The charter review committee shall consist of 7 members, 3 of whom shall be appointed by the select board, 2 of whom shall be appointed by the finance committee, 1 of whom shall be appointed by the Groton-Dunstable Regional District school committee and 1 of whom shall be appointed by the town moderator. An appointed person may be a member of the agency from which they are appointed; provided, however, that the charter review committee shall not include more than 1 select board member, more than 1 member of the finance committee or more than 1 member of the Groton-Dunstable Regional School District school committee. The charter review committee shall meet to organize immediately after the full charter review committee has been appointed. The charter review committee shall hold a public hearing not more than 60 days after the date on which it meets to organize and shall hold at least 1 additional public hearing before filing its final report.

(Emphasis added).

MIRICK O’CONNELL
ATTORNEYS AT LAW

The Committee's charge and scope of review, set forth in the underlined text, is fairly broad. There are some limitations, however, on the topics that may be governed by a charter.

II. Limitations of Home Rule:

Under the Home Rule Amendment, Article 89 of the Massachusetts Constitution, certain subject areas are listed as powers reserved by the Legislature, and may not be modified at the municipal level through a local charter or bylaw. These reserved powers, set forth in Section 7 of the Home Rule Amendment, are as follows:

1. To regulate elections;
2. To levy, assess and collect taxes;
3. To borrow money or pledge the credit of the city or town;
4. To dispose of park land;
5. To enact private or civil law governing civil relationships except as an incident to an exercise of an independent municipal power; and
6. To define and provide for the punishment of a felony or to impose imprisonment as a punishment for any violation of law.

In addition, a local charter or bylaw may not be "inconsistent" with state law. Case law on this point generally holds that where the Legislature has "occupied the field" of a subject matter with a comprehensive state regulatory scheme, state law will preempt local charters and bylaws containing any conflicting terms. Examples of these subjects include alcohol licensing, solid waste facility siting, and building codes.

With respect to forms of local government, the Home Rule Procedures Act (M.G.L. c. 43B) provides that a local charter or charter amendment "shall be deemed consistent with the provisions of any law relating to the structure of city and town government, the creation of local offices, the term of office or mode of selection of local offices, and the distribution of powers, duties and responsibilities among local offices." M.G.L. c. 43B, Section 20. Thus, where a charter conflicts with existing state law on the powers of the Select Board or the appointment of a DPW Director, for example, the charter will take precedence.

III. Options to Amend the Charter:

The process to adopt any of the Committee's proposed amendments will depend upon the scope of the amendments and the preferred political route. Under the Home Rule Amendment and the Home Rule Procedures Act (M.G.L. c. 43B), the following three options are available to amend a charter:

1. Special act of the Legislature, following a petition authorized by a majority vote at Town Meeting.
2. Two-thirds vote of Town Meeting and acceptance by the voters through a ballot question.
3. Charter Commission, which requires the election of a Charter Commission at a Town election and adoption of amendments at a subsequent Town election.

Option 3 is commonly used for new charters or major changes in the structure of local government. Option 1 is the most common approach to amending existing charters and has been used by Groton several times over the years. Traditionally, Option 1 has also been the most efficient method of amending a charter, although special acts have been taking longer to get through the Legislature in recent years.

Option 2 (set forth in M.G.L. c. 43B, Sections 10 and 11) requires a degree of planning and calendar management. Following approval at Town Meeting (2/3rds vote), the Select Board must produce an "order" containing the proposed charter amendment and submit it to the Attorney General's Office and the Executive Office of Housing and Livable Communities for a four-week review period. The Attorney General's role is to identify, and potentially disapprove, any proposed charter amendments that conflict with state law. If the Attorney General's Office does not find a conflict or the four-week review period expires without a report from the Attorney General, the order takes effect and the Select Board includes the proposed charter amendment on the ballot at "the first [Annual Town Election] held at least two months after the order proposing such charter amendment becomes effective." The ballot question(s) must include a summary of the proposed charter amendment prepared by Town Counsel. Multiple charter amendments can take the form of multiple ballot questions / summaries, which can lead to a lengthy ballot.

Because of the timing requirements set forth in M.G.L. c. 43B, Sections 10 and 11, under Option 2 a charter amendment approved at either the Spring or Fall Annual Town Meeting would appear on the ballot at the next Annual Town Election. This can result in a six to twelve month gap between Town Meeting and the ballot vote on a proposed charter amendment unless a Special Town Meeting is planned two to three months before the Annual Town Election. Please note that Option 2 is not permitted for amendments "relating in any way 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." M.G.L. c. 43B, Section 10.



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To: *Charter Review Committee*

From: *Mark W. Haddad, Clerk*

Subject: *Proposed Charter Amendments*

Date: *November 5, 2024*

The purpose of this memorandum is to recommend amendments to the Groton Charter. Please note that these recommendations are based on my experience working under the Groton Charter for the last 16 years. They are meant as a starting point for discussion. I look forward to discussing these proposed amendments in more detail with the Committee.

Recommendation #1:

Section 3.1.1 – Eliminate the Park Commission as an elected Board. Create a Park and Recreation Commission under **Article 5: Administrative Organization** as follows:

Section 5.7 – Park and Recreation Commission

5.7.1 Composition, Term of Office – There shall be a Park and Recreation Commission consisting of five members appointed by the Town Manager, subject to ratification by the Select Board. Members shall serve for 3-year terms, the terms being arranged so that the terms of office of as nearly an equal number of members as possible shall expire each year.

5.7.2 Powers and Duties – The Powers and Duties shall be consistent as defined by Massachusetts General Law, Chapter 45, Section 5. The Commission shall provide guidance to the Town Manager regarding programming, policies, operations and long-range planning. The Commission is responsible for providing suggestions to the Town Manager on DPW operational and administrative needs of public parks and recreational assets and parcels as well as helping guide capital planning efforts.

Other General Duties and Responsibilities Include:

- (i) Act as representatives for all park and recreational activities in the town and acting as a liaison between the community and Town Manager for all park and recreation matters.

- (ii) Support the Department of Public Works through the Town Manager regarding programs, policies, and long-range planning.
- (iii) Serve on subcommittees or task forces as decided or assigned.
- (iv) Make recommendations regarding improvements to/for organizational operations and effectiveness. Provides letters of opinion for park or recreation-specific initiatives as the Commission deems appropriate.
- (v) Recommends to the Town Manager potential cooperative arrangements for programs or initiatives with other towns, groups, businesses, or private entities.
- (vi) Provides feedback to the Town Manager relative to recreational programs, events, or other activities that take place or could impact any Park and Recreation parcels.
- (vii) As requested or approved by the Town Manager, assists Town Boards/Committees in special studies or town-entered contracts relating to public use of parks and/or recreation. While the Commission cannot enter into contracts or direct those under contract with the Town, the Commission may be involved as appropriate.
- (viii) Reviews all recreational use and park-related strategic plans across all Town boards and bodies; make recommendations regarding updates and revisions, as necessary or assigned.
- (ix) Reviews and makes the final decision about any addition, removal, or modification that is requested to a parcel or asset on a parcel under the jurisdiction of the Park and Recreation Commission that results in a change of use. As such the Commission will be engaged at the onset of any addition, removal, or modification and aid with a liaison and/or be updated and advised to support communication and awareness. The intent is not to become involved in routine operations or maintenance (e.g. moving fields due to seeding), but to be involved with anything that might impact usage and user groups. All reviews will occur in collaboration with the Town Manager or their designee(s).
- (x) The Commission reviews and provides recommendations to the Town Manager when users or user groups ask for assistance/guidance from the Commission regarding facility improvements, developments, and/or maintenance plans.
- (xi) Authors and submits an annual report regarding Parks and Recreation Commission business for incorporation in the Annual Town Report.
- (xii) Serves as a liaison to Town Boards, Committees, Task Forces, or other bodies as requested.
- (xiii) Participate, as required by law, in the Community Preservation Committee.

Recommendation #2:

Section 3.2.2 (v) – Amend this paragraph to read as follows:

One Member of the Select Board and the Town Manager shall sign all payroll and expense warrants.

Recommendation #3:

Section 3.2.4 – Appointing Authority – Amend this Section by removing the Police Chief, Fire Chief and Town Clerk so that it will now read as follows:

The select board shall appoint the town manager, town counsel, a zoning board of appeals, board of registrars, conservation commission, council on aging, housing partnership, local cultural council and other committees as required by law, by-law or town meeting vote.

Recommendation #4:

Section 4.2 (i) – Amend this section by changing the words “department heads” to “appointed officers” so it now reads as follows:

managing, supervising and being responsible for the efficient and coordinated administration of all town functions under the town manager’s control as may be authorized by this charter, by-law, town meeting vote or the select board, including all **appointed officers** and their respective departments;

Recommendation #5:

Section 4.2 (iii)(iv)(v) – Delete these sections and replace with a new Section 4.2 (iii) as follows:

appointing and removing department heads, officers and subordinates and employees and other appointed members of town government for whom no other method of appointment or removal is provided in this charter or by-law; appoint a police chief, fire chief and town clerk; provided, however, that the police chief shall serve under section 97A of chapter 41 of the General Laws and the fire chief shall serve under section 42 of chapter 48 of the General Laws; provided, however, that an appointment made by the town manager shall be confirmed by the select board not more than 15 days after the date on which the town manager files notice of the action with the select board; and provided further, that failure by the select board to confirm an appointment in that 15-day period shall constitute rejection of the appointment;

renumber the remaining paragraphs of Section 4.2.

Recommendation #6:

Section 5.3.1 – Change the title of “Principal Assistant Assessor” to “Principal Assessor” so that Section 5.3.1 reads as follows:

There shall be a department of finance in the town that shall report to the town manager. There shall be within the department an appointed town accountant, an appointed treasurer-collector and an appointed **principal assessor**. The department shall be responsible for the performance of all the fiscal and financial activities of the town. The town manager shall serve as the finance director; provided, however, that the town manager may, at the town manager’s discretion, appoint another person to serve as the finance director. The appointment shall be subject to confirmation by the select board in accordance with clause (iii) of section 4.2.

Recommendation #7:

Section 5.3.7 – Change the title of “Principal Assistant Assessor” to “Principal Assessor” so that Section 5.3.7 reads as follows:

Principal Assessor - The **principal assessor** shall be appointed by the town manager for a term of not more than 3 years, subject to confirmation by the select board pursuant to subsection (iii) of section 4.2. The **principal assessor** shall have all of the powers and duties vested in the office of **principal assessor** by this charter, by-law or town meeting vote and in the office of **principal assessor** by law.

Recommendation #8:

Section 5.6 – Personnel Board – Delete this Section and eliminate the Personnel Board.

Recommendation #9:

Section 6.4.1 – Change the date to determine budgetary goals from October 31st to November 30th, so that Section 6.4.1 reads as follows:

Budget Process - The select board, the town manager, the department of finance and the finance committee shall meet annually not later than **November 30** to determine the budgetary goals for the subsequent fiscal year. The town manager shall, after that meeting but not later than January 31, submit to the finance committee and the select board a proposed budget for the next fiscal year that shall be accompanied by a budget message, a summary and supporting documents that follow the agreed-upon budget goals. The proposed budget shall be balanced.

Recommendation #10:

Section 6.6 – Capital Improvement Plan – Change the date that the Capital Improvement Plan is due from December 31st to January 31st, so that Section 6.6 reads as follows:

The town manager shall annually submit a capital improvement plan to the select board and the finance committee not later than **January 31**. The plan shall include: (i) a clear, concise and general summary of its contents; (ii) a list of all capital improvements proposed to be undertaken during the ensuing 5 years along with supporting information as to the need for each capital improvement; (iii) cost estimates, methods of financing and recommended time schedules for each improvement; and (iv) the estimated annual cost of operating and maintaining each facility and piece of major equipment involved. The information in the plan shall be revised annually by the town manager with regard to the capital improvements still pending or in the process of being acquired, improved or constructed.

I look forward to discussing these recommendations in more detail with the Committee.

MWH/rjb



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**LEGAL NOTICE
TOWN OF GROTON
PUBLIC HEARING**

The Charter Review Committee will hold a public hearing on Thursday, December 5, 2024 at 7:00 P.M., Groton Town Hall, 173 Main Street, Second Floor Meeting Room, Groton, MA. This hearing is being held as directed by the Groton Charter. The Charter Review Committee will be seeking input from residents on issues/concerns/proposed changes to the Groton Charter that was last amended in October, 2023. During the hearing, an overview of the Groton Charter and the process of amending the Charter will be discussed. Prior to and after the Public Hearing, any resident or individual with proposed changes or questions about the process can reach out to the Charter Review Committee at CharterReview@grotonma.gov. Additional information on the process for submitting changes for consideration will be presented during the Public Hearing. Public input on the change process and changes to the Charter itself are currently being solicited.

All interested parties are encouraged to attend.

Peter S. Cunningham, Chair
Charter Review Committee

**CHARTER REVIEW COMMITTEE MEETING
MINUTES
OCTOBER 17, 2024**

Present: Peter Cunningham, Robert Collins, Kristen Frank, Rebecca Weksner, Brenden Mahoney, Michael Sulprizio, Mark Haddad

Mr. Haddad called the meeting to order at 5:30 p.m. Mr. Haddad presented the Agenda for the meeting.

Organization of the Board

Since this was the first meeting of the Charter Review Committee, the Committee needed to organize.

Mr. Haddad nominated Peter Cunningham for the position of Chair. Mr. Collins seconded. The vote was 6 in Favor, 1 abstention (Cunningham).

Mr. Cunningham called for nominations for Vice-Chair. Mr. Haddad nominated Rebecca Weksner for the position of Vice-Chair. Mr. Collins seconded. The vote was unanimous.

Mr. Haddad stated that he would be willing to be Clerk and keep the minutes and track proposed changes to the Charter.

Mr. Sulprizio nominated Mark Haddad for the position of Clerk. Ms. Weksner seconded. The vote was unanimous.

Determine Meeting Schedule

The Board discussed how often they would meet. It was determined that they would meet twice a month on the first and third Thursday of the month. The next meeting would be scheduled for November 7, 2024. The Committee determined that the start time of the meeting would be 4:30 p.m.

Determine Process for Review of the Charter

Mr. Collins stated that the previous Charter Review Committee solicited public input through a flyer in the Electric Light Bill. The Committee asked Mr. Haddad to investigate doing this again. Mr. Haddad said he would find the advertisement the last Charter Review Committee used and share it with the Committee for review and approval. The Committee would also like to advertise on the Town's website, the Groton Herald and Facebook. Mr. Cunningham noted that he would announce that the Committee was seeking input at every Select Board meeting as well.

Mr. Mahoney asked members if they have reviewed the Charter and what they thought was needed. Mr. Collins said that the last review did a very good job reviewing the Charter and that minor tweaks

were needed. Mr. Cunningham agreed and reviewed the history of the creation of the Charter. Ms. Weksner stated that as she reviewed the Charter she would not readily recognize the need for change as it was more an organizational document. Mr. Haddad stated that having a fresh set of eyes on the document from Ms. Weksner and Ms. Frank who are not intimately familiar with day to day operations would provide great feedback.

Determine Date of the First Public Hearing

Mr. Haddad stated that the Charter requires the Committee to hold the first public hearing within 60 days of the first meeting. That means the hearing would have to take place by December 17, 2024. In addition, a second public hearing would need to be held prior to the Committee issuing its final report. The Committee decided that the best date for the first public hearing would be Thursday, December 5, 2024 beginning at 7:00 p.m.

Schedule Meeting with Town Counsel to Review Charter Approval Process

Mr. Haddad recommended that the Committee meet with Town Counsel to discuss how changes to the Charter would be approved. Since the Committee needs to understand the approval process of any proposed change, the Committee agreed that having Town Counsel attend an upcoming meeting would be a good idea. Mr. Haddad will contact Town Counsel and ask him to attend the November 7th meeting, if possible.

Other Issues

Mr. Haddad stated that due to potential conflicts of interest of members on the Committee, Town Counsel recommended that the Select Board designate the Charter Review Committee as Special Municipal Employees pursuant to M.G.L., c. 268A. The Select Board will be taking this up at their meeting scheduled for October 21, 2024.

Being no further business, Mr. Cunningham adjourned the meeting at 6:05 p.m.

Respectfully submitted,

Mark Haddad, Clerk