

Harvard Charter Commission
Meeting Minutes
October 27, 2016
Town Hall

Members present: Paul Cohen (Chair), Rick Maiore, Sharon McCarthy, George McKenna, Stephanie Opalka, Ron Ostberg, Cindy Russo, Peter Warren
Members absent: Charles Redinger

Paul called the meeting to order at 7 p.m.

Discussion with **Board of Selectmen** (BOS) Ron Ricci, Stu Sklar, Ken Swanton (chair), Alice von Loesecke, and Lucy Wallace and **Town Administrator** Tim Bragan.

Issue: Town committees need a “home” within the town government structure. There should be an effort to group committees with broadly defined common interests into logical groups which have an identified contact or staff person within town hall.

Issue: Where should the authority lie for setting the town’s strategic plan and for managing town operations? What should the reporting structure be?

- What BOS activities can be delegated? What needs to stay with the BOS?
- Recognize distinction between setting policy and execution of policy.
- What board/committee actions can/should be approved by BOS?
 - Consider whether board is elected or appointed.
 - Consider whether board is regulatory or advisory.
 - Is the board’s action for the town meeting warrant?
- Hiring town hall staff: Who makes hiring decisions? At what levels? Department heads, department members, administrative support.
- Management of town hall staff: Need to clarify the reporting structure for town committee staff.

Issue: Communication among boards is not consistent.

- Communication for government by volunteers is often through the staff, which points out the need for expertise and adequate staffing.
- Process can be formal or informal.
- Can some boards/committees be consolidated to improve communication?
- Not all affected boards get the information they need to do their jobs.
- Some confusion about what board is responsible for an area or decision. E.g. Park and Rec and the Town Common.
- Some bylaws are not being followed, though those are being identified now.

Issue: Master Plan does not take into account the financial plan and has no resources dedicated to it for implementation.

Issue: Additional maintenance support is necessary to protect town assets.

- Outsourcing overseeing town buildings cost into six figures per year.

- Part-time DPW person may not have the time or required skills.
- Sharing school maintenance person with town was rejected by School Committee, but could be readdressed.
- Facilities maintenance is distinct from custodial and field maintenance.

Issue: Additional administrative support is necessary due to increased complexity of work and increased expectations of residents.

- More expertise is required than volunteers can always provide.
- Residents expect faster responses, e.g. social media, and less compromise.

Suggestion: Consider a Community and Economic Development committee could

- Streamline review of diverse housing proposals and zoning and wetlands issues.
- Attract appropriate businesses to business district.
- Assist other boards.
- Help with implementation of Master Plan.

Minutes of 10/6 meeting tabled until next meeting.

Next meetings:

- Thursday, November 3, 7 p.m. Town Hall 2nd floor
- Thursday, November 17, 7 p.m. Town Hall 2nd floor – Public Hearing

Paul adjourned the meeting at 9 p.m.

Laura Andrews, recorder

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Charter Framework

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ARTICLE 1: INCORPORATION, EXISTENCE AND AUTHORITY

Section 1-1: Incorporation

The inhabitants of the town of Harvard, within the corporate limits established by law, shall continue to be a body corporate and politic with perpetual succession under the name "town of Harvard."

Section 1-2: Short Title

This instrument shall be known and cited as the Harvard Charter.

Section 1-3: Powers of the Town

It is the intent and purpose of the voters of the town, through the adoption of this charter, to secure for the town all the powers possible under the constitution and laws of the commonwealth, as fully and as completely as though each power were specifically and individually enumerated herein.

Section 1-4: Division of Powers

The administration of all the fiscal, prudential and municipal affairs of the town shall be vested in an executive branch headed by a board of selectmen and a town administrator. The legislative powers shall be exercised by an open town meeting.

Section 1-5: Interpretation of Powers

The powers reserved or granted to the town under this charter shall be construed liberally and interpreted broadly in its favor and the specific mention of any particular power is not intended to limit in any way the general powers of the town as stated in section 1-3.

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Section 1-6: Intergovernmental Relations

The town may enter into agreements with any other units of government to perform jointly or in cooperation, by contract or otherwise, any of its powers or functions.

Section 1-7: Precedence of Charter Provisions

All general laws, special laws, town by-laws, votes, rules and regulations of or pertaining to the town which are in force when the charter takes effect and which are not specifically or by implication repealed directly or indirectly hereby, shall continue in full force and effect until amended or rescinded by due course of law or until they expire by their own limitation.

Section 1-8: Ethical Standards

Elected and appointed officers, employees and volunteers of the town are expected to demonstrate, by their example, with their general conduct and in the performance of their duties and responsibilities, the highest ethical standards to the end that the public may justifiably have trust and confidence in the integrity of its government. Elected and appointed officers, employees and volunteers of the town are expected to recognize that they act always as agents for the public, that they hold their offices or positions for the benefit of the public, that the public interest is their primary concern, and that they are expected to faithfully discharge the duties of their offices regardless of personal considerations. Elected and appointed officials, employees and volunteers of the town shall not use their official positions to secure or grant special consideration, treatment, advantage, privilege or exemption to themselves or to any other person beyond that which is available to every other person.

Section 1-9: Definitions

As used in this charter, the following words shall have the following meanings unless the context clearly requires otherwise:

- (a) "Charter", this charter and any amendments to it, which may hereafter be adopted.
- (b) "Days", business days, not including Saturdays, Sundays and legal holidays; provided, however, that when the time set is at least 7 days, every day shall be included.
- (c) "Emergency", a sudden, unexpected, unforeseen happening, occurrence, event or

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condition which necessitates immediate action.

- (d) "Local newspaper", a newspaper of general circulation in the town of Harvard.
- (e) "Majority vote", a majority of those present and voting, provided that a quorum is present when the vote is taken.
- (f) "Multiple member body", any town body, consisting of at least 2 persons, whether called a board, commission, committee, subcommittee or otherwise and however elected, appointed or otherwise constituted.
- (g) "Quorum", except for a town meeting and unless otherwise required by law or this charter, a majority of the members of a multiple member body then in office, not including any vacancies which might then exist.
- (h) "Town", the town of Harvard.
- (i) "Town agency", any board, commission, committee, department, division or office of the town government.
- (j) "Town Bulletin Board", bulletin boards in the town hall on which office notices are posted and those at other town buildings or facilities which may be designated as town bulletin boards.
- (k) "Town Meeting", the open town meeting established in article 2, whether annual or special.
- (l) "Town Officer", a person having charge of an office or department of the town who, in the exercise of the powers or duties of that position, exercises some portion of the sovereign power of the town.
- (m) "Voters", registered voters of the town.
- (n) "Warrant", a document required to warn and notify residents and inhabitants of the town, who are qualified to vote in town affairs, to meet at a specific place to act on published articles relating to the governance of the town.

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ARTICLE 2: LEGISLATIVE BRANCH

Section 2-1: Town Meeting

The legislative powers of the town shall be exercised by a town meeting open to all registered voters of the town.

The annual town meeting shall be held during February, March, April, May, or June {MGL Ch. 39, S9}, and shall be concerned with the determination of matters involving the expenditure of town funds, including, but not limited to, the adoption of an annual operating budget for all town agencies, and for the purpose of electing officers and for the determination of all other matters to be decided by ballot of the voters.

Section 2-2: Presiding Officer

The moderator, elected as provided in section 3-4, shall preside at all sessions of annual and special town meetings. He may appoint a deputy moderator, subject to ratification by the town meeting, to serve at any session of an annual or special town meeting in the event of his absence or disability. The deputy moderator may also temporarily serve when the moderator has a conflict or the appearance of conflict arises, as determined by the moderator, with regard to a particular article or matter under consideration.

The moderator, at all town meetings, shall regulate the proceedings, decide all questions of order, make public declaration of all votes, and may exercise such additional powers and duties as may be authorized by law, this charter, by-law or other vote of the town meeting.

Section 2-3: The Town Report

The board of selectmen shall publish an annual town report and make it available before the annual town meeting. {MGL Ch. 40, S49}.

Section 2-4: Special Town Meetings

Special town meetings shall be held at the call of a majority of the full board of selectmen in order to transact the legislative business of the town in an orderly manner. Special town

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meetings shall also be held on the petition of the lesser of at least 200 voters or 20 per cent of the total number of voters. {MGL Ch39, S. 10}

Section 2-5: Warrants

Every town meeting shall be called by a warrant issued by the board of selectmen, which shall state the time and place at which the meeting is to convene and, by separate articles, identify the subject matters to be acted upon. The publication of the warrant for every town meeting shall be in accordance with the General Laws and by-laws governing such matters.

Section 2-6: Initiation of Warrant Articles

(a) Initiation - Subject to paragraph (c), the board of selectmen shall receive petitions addressed to it which request the submission of any matter to the town meeting and which are filed by any 10 or more registered voters for a session of the annual town meeting or by the lesser of 100 registered voters or ten percent of the registered voters of the town for a special town meeting.{MGL Ch39, S10}.

(b)

(c) Inclusion on the Warrant - Town Meeting - Whenever a town meeting is to be called, notice shall be given by posting attested copies of the warrant in at least 1 public place in the town at least 7 days before the annual town meeting and at least 14 days before a special meeting. The content, scheduling and notice requirements for a town meeting shall be as provided for in section 10 of chapter 39 of the General Laws.

Section 2-8: Clerk of the Meeting

The town clerk shall serve as clerk of the town meeting, give public notice of all adjourned sessions of the town meeting, record its proceedings, and perform such additional duties in connection therewith as may be provided by the law, this charter, by-law or other town meeting vote.

Section 2-9: Rules of Procedure

The town meeting may, by by-law, establish, amend, revise or repeal rules to govern the

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conduct of all town meetings.

Section 2-10: General Powers and Duties

The town meeting shall provide for the exercise of all of the powers of the town and for the performance of all duties and obligations imposed upon the town for which no other provision is made by law, this charter or by-law.

ARTICLE 3: ELECTED OFFICERS

Section 3-1: General

- (a) Elective Town Offices - The town offices to be filled by the voters shall be the board of selectmen, cemetery commissioners, community preservation committee, constable, board of health, library trustees, moderator, park and recreation commission, planning board, school committee, tree warden, the Warner Free Lecture Society, and other officers or representatives to regional authorities or districts as may be established by law or by inter-local agreement which shall also be filled by ballot at town elections.

- (b) Town Election - The annual election by ballot of town officers and voting on any questions required by law to be placed upon the official ballot shall take place in February, March, April, May, or June before or after the annual meeting held for the transaction of other business is also held or commences in February, March, April, May, or June. {MGL Ch. 39, S9A}

- (c) Eligibility - Any voter shall be eligible to hold any elective town office, unless specifically prohibited by law or by-law.

- (d) Compensation - Elected town officers shall receive such compensation for their services as may be appropriated at the annual town meeting for such purpose.

- (f) Filling of Vacancies
 - 1. Moderator - If a vacancy in the said office occurs during any term, it may be filled by the voters of the town. If a moderator so elected is absent, a temporary moderator may be elected. {MGL Ch39, S14.}

 - 2. Elected multiple member body - If there is a failure to elect a member of a multiple member body, or if a vacancy occurs in the membership of an elected multiple member body, the remaining members of the multiple member body shall give notice to the board of selectmen and to the public of the vacancy in accordance with section 7-9. The board of selectmen and the remaining members of the multiple member body shall, not less than 1 week after notice of the date on which the vote is to be taken, fill the vacancy until the next town election by a joint vote. The affirmative votes of the majority of the persons entitled to vote on the vacancy shall be necessary for the election. {MGL CH41, S11}

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3. Board of Selectmen - If there is a failure to elect a member of the board of selectmen, or if a vacancy occurs in the membership of the board of selectmen, the remaining members of the board of selectmen may call a special election to fill the vacancy or shall call the special election upon the written request of at least 200 voters, or twenty per cent of the total number of registered voters of the town, whichever number is the lesser; provided, that that such request is filed with them or him not less than one hundred days prior to the date of the next annual election. {MGL Ch41, S10}

Section 3-2: Board of Selectmen

- (a) Composition, Term of Office - There shall be a board of selectmen consisting of 5 members elected for terms of 3 years each, arranged so that the terms of office of as nearly an equal number of members as is possible shall expire each year.
- (b) Powers and Duties - The executive powers of the town shall be vested in the board of selectmen which shall be deemed to be the chief executive office of the town. The board of selectmen shall possess all of the executive powers that a board of selectmen may possess and exercise, except those powers and duties assigned by this charter, by-law or other town meeting vote to the town administrator. The board of selectmen shall:
 1. serve as the chief policy making agency of the town;
 2. be responsible for the formulation and promulgation of policy to be followed by all town agencies serving under it;
 3. in conjunction with other elected town officers and multiple member bodies, develop and promulgate policy guidelines designed to bring all town agencies into harmony; and
 4. award and execute all contracts for services and supplies for all departments and agencies of the town, other than the school committee; provided, however, that the board of selectmen, at its sole discretion, may delegate this authority to any town officer or agency.
- (c) Licensing Authority - The board of selectmen shall be the licensing board of the town and may issue licenses, make reasonable rules and regulations regarding the issuance of licenses and attach such conditions and restrictions thereto as it deems to be in the public interest; provided, however, that such rules, regulations, conditions and restrictions are not

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incompatible with applicable law. The board of selectmen shall enforce the laws relating to all businesses for which it issues licenses. The board of selectmen may delegate its licensing authority unless specifically prohibited by law.

(d) Appointing Authority - The board of selectmen shall appoint the town administrator, town counsel, a zoning board of appeals, and a board of registrars. The board of selectmen shall also appoint, consistent with paragraph (d) of section 4-2, a police chief and a fire chief. The police chief shall serve under section 97A of chapter 41 of the General Laws. The fire chief shall serve under section 42 of chapter 48 of the General Laws. The board of selectmen shall also appoint a conservation commission, council on aging, housing partnership, local cultural council, and other committees and employees as required by the General Laws.

(e) Investigations - The board of selectmen may investigate the affairs of the town and the conduct of any town agency, including any doubtful claims against the town.

Section 3-3: School Committee

a. The Harvard School Committee provides public education, pre-K through high school, and related services to the town of Harvard. The School Committee shall consist of 5 members elected for terms of three years each, the terms being arranged so that the terms of office of as nearly an equal number of members as possible expire each year.

b. The Harvard School Committee shall have all of the powers and duties which are given to school committees under the constitution, laws and regulations of the commonwealth and additional powers and duties as may be authorized by by-law or other vote of the town meeting.

Section 3-4: Town Moderator

(a) Term of Office - There shall be a town moderator elected for a term of 1 year. _

(b) Powers and Duties - The town moderator shall be the presiding officer of the town meeting, as provided in section 2-2, and shall regulate its proceedings and perform other duties as may be provided by law, this charter, by-law or other town meeting vote.

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(c) Appointments - The town moderator shall make appointments provided for by law, this charter, or by-law.

{For example, Chapter 36-1 of the Town Bylaws provides that the Moderator shall appoint the members of the Finance Committee.}

(e) Deputy Moderator - At the first session of the town meeting, the moderator may, in accordance with section 2-2, appoint a voter to serve as deputy moderator. In the absence of the moderator and the duly ratified deputy moderator at any session of a town meeting, the town clerk shall open the meeting and preside over the election of an acting moderator. In the absence of the moderator the deputy moderator and the town clerk, the presiding officer of the first session of a town meeting shall be determined as provided for by law. {MGL Ch39, S14}

Section 3-5: LEFT BLANK

Section 3-6: Planning Board

(a) Composition, Term of Office - There shall be a planning board consisting of 5 members each elected for a term of 3 years. The terms shall be arranged in order that the terms of as nearly an equal number of members as possible shall expire each year.

(b) Powers and Duties - The planning board shall have those powers and duties given to planning boards under the constitution and laws of the commonwealth and shall also have such additional powers and duties as may be authorized by this charter, by-law or other town meeting vote.

Section 3-7: LEFT BLANK

Section 3-8: Trustees of the Harvard Public Library

(a) Composition, Term of Office - There shall be a board of trustees of the Harvard public library, which shall consist of 6 members, each serving for a term of 3 years. The terms shall be arranged in order that the terms of 2 members shall expire each year.

(b) Powers and Duties - The trustees of the Harvard public library shall establish written policies governing library activities and services; engage in ongoing planning which

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assesses the needs and the role of the library in the community; ensure that the library meets the community's needs; work on preparation of the annual library budget and its adoption by the town; monitor and oversee maintenance of the buildings and grounds and regularly review facility needs; hire and evaluate the library director and work with the personnel board on job classifications for all staff; promote the library and act as library advocates in the community; study and support legislation which will benefit the library and the larger community; and have such other powers and duties as provided for by law, this charter and by-law.

- (b) Appointments - The trustees of the Harvard public library shall appoint the library director and such other appointments as provided for by law, this charter or by-law.

Section 3-9: Other Elected Officers

Powers and Duties - All other elected officers shall have the powers and duties that have been conferred upon their offices by law, this charter, by-law or other town meeting vote.

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ARTICLE 4: TOWN ADMINISTRATOR

Section 4-1 Appointment, Qualifications and Review Procedure

- (a) The Board of Selectmen may establish and employment contract for a period of time to provide for the salary, fringe benefits and other conditions of employment, including but not limited to, severance pay, relocation expenses, reimbursement for expenses incurred in the performance of duties of office, liability insurance and leave for its town administrator. (MGL Ch 41, § 108N)
- (b) The Town Administrator shall have a Bachelor's Degree in Public Administration or Business Administration or equivalent. A Master's Degree in Public Administration or equivalent is highly desirable. Five years of experience in a responsible administrative or supervisory capacity with the public sector is required. This experience should be of a nature showing successful work history in area contained in this job description. (Job Description)
- (c) The Town Administrator, under the direction of the Board of Selectmen, administers and supervises all phases of the Board's responsibilities. Provides day-to-day administrative coordination and direction to department heads under the jurisdiction of the Board of Selectmen, including the Inspectors, Dog Officer, Fire and Police Chiefs and the Highway Superintendent, as well as to all boards and commissions that report to the Selectmen. Serves as the Selectmen's liaison to other Town departments and boards, coordinating activities involving more than one department and follow up with all departments on issues requested by the Selectmen. (Job Description)
- (d) Annually the Chairman and immediate Past Chairman shall perform and annual review of the Town Administrator and provide a report to a regularly scheduled meeting of the Board of Selectmen. (Current Practice)

Section 4-2: Duties and Responsibilities – General

The Town Administrator is responsible for the Management of the Office of the Board of Selectmen, other

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departments under the control of the Board of Selectmen and the establishment of effective working relationships amongst all Town boards, departments, commissions and committees. Town Administrator shall communicate Selectmen's policy to all departments and personnel under the control of the Selectmen. (Job Description)

- (e) Exercises direct supervision of employees of the Selectmen's office and provides general supervision to department heads under the control of the Board of Selectmen. Department heads and other employees report to the Board of Selectmen through the Town Administrator. Coordinates and participates in the evaluation of performance and goal setting for above mentioned department heads.
- (f) Prepares with the Chairman of the Board the Agenda for meetings of the Board of Selectmen. Anticipates needs of the Selectmen for information and background material for setting policy and making decisions. Ascertains that all decisions of the Board are carried out.
- (g) Informs the Selectmen and other appropriate boards/committees of all relevant statutory and regulatory changes.
- (h) Works with the Board of Selectmen to develop long range goals and objectives for the Town, including keeping the Board informed on the long range needs of the Town and suggested alternative courses of action. Coordinates the compilation of the Capital Program with the Board of Selectmen and Capital Committee and Finance Committee and Director in developing an action program.
- (i) Works with Town Boards and commissions in an advisory capacity and reports to the Board various town projects and regional and state agencies on projects involving the town.
- (j) Prepares the Town warrants and materials necessary for Town Meetings as well as providing assistance to the Finance Committee in preparing their report for Town Meetings.
- (k) Prepares applications for grants, administers grants received, works with appropriate state and private officials on projects and reports necessary to the Board of Selectmen. Ensures that projects and programs are effectively coordinated and ensuring communications are maintained by following the projects and programs and reporting as necessary to the Board of Selectmen.
- (l) May be appointed by the Board of Selectmen, or with its approval, by other Town officer, board, committee or commission to serve on other Town, County or State Boards/Committees.
- (m) Attends Federal, State and other local professional meetings and otherwise keeps abreast of modern developments in municipal government in furthering the best interests of the Town and makes appropriate reports to the Board of Selectmen.
- (n) Prepares bid specifications, analyzing bids and acting as contract administrator for Selectmen. Monitors the work of contractors and consultants hired under the Selectmen's jurisdiction.
- (o) Responsible for the Annual Town Report.

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4-3 Duties and Responsibilities – Personnel (Job Description – May be impacted by addition of Assistant Town Administrator/HR Director)

- (p) Coordinate personnel matters with the Human Resource Director under the direction of the Personnel Board and Board of Selectmen.
- (q) Coordinates the interviewing of and necessary checks on applicants for key administrative positions
- (r) Administers the system of performance evaluation of those personnel defined as Selectmen's management staff.
- (s) Serves as Chairman of the Employee Insurance Committee and oversees all insurance policies and practices, selects workers compensation and property and liability insurance policies for purchase by town.
- (t) Acts as the Town's Affirmative Action Officer and Town's Coordinator with Access to Services committee for handicapped and ensures Compliance of with all Federal and State regulations, including updates to Town Plan for the Handicapped. As Town's Coordinator for Handicapped, ensures compliance for access by the handicapped to all Town Buildings and property.

Section 4-4. Duties and Responsibilities – Financial (Job Description)

- (u) Town Administrator works with the Finance Director/Finance Committee and on behalf of the Selectmen coordinates operating and budget preparation for all departments of the Town. Serves as Selectmen's representative with the Finance Committee.
- (v) Town Administrator develops proposed budget, presents to Finance Committee which reviews, revises and presents to Town Meeting. (Current practice.)
- (w) Prepares and implements the operating budgets for the Selectmen's office.
- (x) Reviews and makes recommendations to the Board of Selectmen on all budget requests of departments reporting to the Selectmen.
- (y) Responsible to monitor and report actual expenditures during the year to the Board.
- (z) Town Administrator develops proposed budget

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- (aa) Fin Com reviews and revises
- (bb) Fin Com's budget is presented in the Warrant and proposed to the Town Meeting.

4-5 – Duties and Responsibilities – Legal (Job Description)

- (cc) Implements the requirements of the General Laws of the Commonwealth, Town Bylaws and approved policies of Town Boards, Commissions and Committees as required.
- (dd) Organizes proposed Warrant Articles for Town Meetings. Conducts Warrant Article research as requested by the Board of Selectmen. Attends Town Meetings and provides information to the Selectmen, Town Counsel and other individuals.
- (ee) Works closely with Town Counsel in preparation of legal research and maintains and report to various boards and committees status of legal issues.

4-6 – Duties and Responsibilities – Miscellaneous (Job Description)

- (ff) Devens: The Town Administrator shall act as the Board of Selectmen's to Federal, State and other local government jurisdiction relative to the Disposition of Devens. In particular, works with the MassDevelopment and the Devens Enterprise Commission in coordinating and reviewing aspects of the project which affect the Town of Harvard. Reports to and keeps the Board of Selectmen informed on all aspects of the project affecting the town, including dates of all meetings and activities. Works with representatives from Ayer, Lancaster and Shirley in coordinating the activities of the Joint Boards of Selectmen.
- (hh) Building Maintenance - Manages facilities and equipment under the jurisdiction of the Board of Selectmen. Monitors building maintenance and authorizes appropriate expenditures or makes necessary recommendations to the Board of Selectmen relative to repair and maintenance.

–4-7 - Approve Payroll and Vendor Warrants on Behalf of the Board of Selectmen. (If Approved - 2016 ATM Voted to authorize the Board of Selectmen to petition the General Court of the Commonwealth to enact a special act authorizing this.)

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4-8 – Duties and Responsibilities – Appointment. (Current Practice.) Current Practice:

(gg) Together with Personnel Board and Department Heads, Advise Board of Selectmen regarding appointments. Only one candidate meets the Board in public meeting.

(hh) Exceptions: Park and Rec hires beach director, Library Trustees hire library director who hires library staff, Fire Chief hires (strong chief law), Finance Director hired by BOS with input from School. Town Planner chosen by Planning Board.

Section 4-9 – Removal or Suspension (Current Town Administrator Contract)

(ii) The Selectmen may suspend the Town Administrator with pay and benefits at any time during the term of this agreement after (1) written notice to the Town Administrator of a hearing to be held at least five business days prior to such hearing, the notice to include a list of charges warranting consideration of suspension (2) A duly noticed public hearing at which the Town Administrator shall be afforded all rights provided under the Open Meeting Law and (3) A majority vote of the Selectmen.

(jj) The Selectmen may dismiss the Town Administrator for cause at any time during the term of this agreement after: (1) written notice to the Town Administrator of a hearing to be held to consider dismissal at least fifteen (15) business days prior to such hearing, the notice to include a list of charges warranting consideration of dismissal; (2) A duly noticed public hearing at which the Town Administrator shall be afforded all rights provided under the Open Meeting Law; and (3) A majority vote of the Selectmen.

(kk) The Town Administrator shall have right of appeal to the Courts of the Commonwealth of Massachusetts.

(ll) The Selectmen may suspend or dismiss the Town Administrator for incapacity, conduct unbecoming, insubordination, or for other cause shown after notice and hearing as stated above. For the purposes of this agreement, the definition of cause includes, but is not limited to malfeasance (defined as the doing of a lawful act in an unlawful or improper manner so there is an infringement on the rights of others), nonfeasance (defined as the failure to do what duty requires to be done), violation of the town charter, or unauthorized exercise of the responsibility and authority of the Selectmen of actions in direct contradiction with the policies of the Board of Selectmen.

Article 5: Administrative Organization

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Section 5-1: Organization of Town Agencies

The organization of the town into operating agencies for the provision of services and administration of government may be accomplished by any method consistent with law and this charter, including adoption of by-laws, appropriation of funds or adoption of rules and regulations by appropriate entities. Further, the town administrator may, with the approval of the board of selectmen and consistent with law and this charter, establish, reorganize, consolidate or abolish any department or position under the town administrator's direction and supervision.

Section 5-2: Merit Principle

All appointments and promotions of town officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competency and suitability.

Section 5-3: Department of Finance

- a) There shall be a department of finance in the town, reporting to the town administrator, including 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 administrator shall serve as the finance director; provided, however, that the town administrator may, at the town administrator's discretion, appoint another person to serve as the finance director. The appointment shall be subject to confirmation by the board of selectmen in accordance with section 4-2(c) for a term not to exceed 3 years.
- b) The department of finance shall assume all of the powers, duties and responsibilities related to municipal finance performed by or under the authority of the town accountant, the tax collector, the town treasurer and the principal assessor and to the coordination of those activities with the activities of all other town agencies. The department of finance shall have additional powers, duties and responsibilities with respect to municipal finance related functions and activities, as the town may provide by by-law.
- c) The department of finance shall assure that complete and full records of the financial and administrative activities of the town are maintained and shall render written reports, comprising a full accounting of all town administrative and financial operations, to the board of selectmen.
- d) Town Accountant - The town accountant shall be appointed by the Board of Selectman on the recommendation of the town administrator annually. The town accountant shall

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have all the powers and duties vested in this office by law, this charter, by-laws or other town meeting vote.

- e) Treasurer/Collector - The treasurer/collector shall be appointed by the Board of Selectman on the recommendation of the town administrator annually. The treasurer/collector shall have all the powers and duties vested in this office by law, this charter, by-laws or other town meeting vote.
- f) Principal Assessor - The principal assessor shall be appointed by the Board of Selectman on the recommendation of the town administrator for a term not to exceed 3 years. The principal assessor shall have all the powers and duties vested in this office by law, this charter, by-law or other town meeting vote.

Section 5-4: Department of Public Works

Section 5-4-1: There shall be a Department of Public Works in the town under a director. The director shall be appointed by the Board of Selectmen on the recommendation of the town administrator. The director shall also serve as and perform the duties of a highway surveyor as set forth in the General Laws.

Section 5-4-2: The principal functions of the department of public works shall include:

- a) Plans, directs, and supervises the operation, maintenance, and construction work of the Highway Department to provide an adequate maintenance of roads and drainage systems, proper maintenance of equipment and facilities, and snow removal of that system. Develops and maintains records on the public roads systems and projects related to his duties.
- b) Plans, directs, and supervises the operation and maintenance of the Transfer Station and recycling facility to provide proper disposal of solid waste and recyclable materials. Files required reports with State regulatory agencies.
- c) As requested by the appropriate authority, directs, and supervises the operation and system maintenance of the Water Department, Cemetery Department, Pond Committee, Conservation Commission, Elm Commission, Tree Warden, Playgrounds and Recreation Fields, Town Common, and School Grounds. Meets with the respective boards periodically. Assists the appropriate authority, as requested, in planning the operations of the respective departments.

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- d) Plans, directs, and supervises the operation and maintenance of the Town's (non-School Department) buildings. Manages building custodians and hired contractors. Develops an effective maintenance and capital investment plan for Town buildings.
- e) Serves as the Town's water operator or otherwise delivers that service to the town. Files necessary reports with State regulatory agencies.
- f) Is responsible for the preparation and justification of an annual departmental budget. Operates the department within the budgetary constraints.
- g) Maintains a departmental personnel record system in which shall be kept all pertinent information on all departmental employees.
- h) Responsible for the requisition, purchase, and maintenance of equipment and supplies.
- i) Submits an annual report to the Board of Selectmen outlining the activities of the Department. Supervises the maintenance of all records and accounts. Submits all reports required by State County and Federal entities.
- j) Plans and supervises the training of subordinates; develops or adopts new techniques to improve effectiveness. Enlists the suggestions of members and employees of the Department to ensure maximum relevance and acceptance of all departmental regulations. Promulgates and issues policies, procedures, and direction, written and oral, covering all departmental functions not inconsistent with his/her powers, duties and responsibilities. Keep himself/herself informed as to the affairs of the Department, ensuring that the duties and responsibilities of members and employees are being properly discharged. Performs regular performance evaluations of all employees. Provide for investigation into all cases of alleged or apparent misconduct by departmental personnel. Assigns, details or transfers any member or employee of the Department to or from any area, function or assignment whenever he shall deem such action to be in the best interest of the efficiency, discipline, or morale of the Department. Determines disciplinary action as required.
- k) Administers the driveway connection regulations of the Town. Where necessary, conducts studies as to the effect of traffic, safety, and other factors covered by the regulations.

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- l) Working with the Planning Board, Board of Appeals, or the Board of Selectmen reviews site plans, subdivision plans and other plans having effect on the infrastructure of the Town.
- m) Designs, develops, and maintains public systems, buildings, land, and roads. Analyzes and advises where requested.
- n) Provides general liaison support to the Conservation Commission, Board of Health, Planning Board and Board of Appeals on behalf of the Board of Selectmen. Acts as liaison with community development boards and committees and the Board of Selectmen on designated projects. Ensures proper communication and cooperation with these boards.
- o) 5-4-3 Powers and Duties. The department shall work in close coordination with the necessary town boards and departments to enable the effective and efficient performance of its duties pursuant to the general laws, this charter, by-law or vote of town meeting.

ARTICLE 6: FINANCE AND FISCAL PROCEDURES

PENDING.....

ARTICLE 7: GENERAL PROVISIONS

Section 7-1: Charter Changes

This charter may be replaced, revised or amended in accordance with any procedures made available under the state constitution and laws of the commonwealth.

Section 7-2: Severability

The provisions of this charter are severable. If any provision of this charter is held to be invalid, the other provisions of this charter shall remain in full force and effect and shall not be affected thereby. If the application of this charter or any of its provisions to any person or circumstances is held to be invalid, the application of this charter and its provisions to other persons and circumstances shall not be affected thereby.

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Section 7-3: Specific Provisions to Prevail

To the extent that any specific provision of this charter shall conflict with any provision expressed in general terms, the specific provisions shall prevail.

Section 7-4: Number and Gender

Words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular; words importing the feminine gender shall include the masculine gender; words importing the masculine gender shall include the feminine gender.

Section 7-5: Rules and Regulations

A copy of all rules and regulations adopted by any town agency shall be filed in the office of the town clerk and any such rule or regulation shall become effective on the date of such filing, unless otherwise provided for by law or by-law. Copies of all such rules and regulations shall be made available for review by any person who requests such information pursuant to the public records law.

- (a) Notwithstanding the provisions of any general or special law to the contrary, any appointed officer, appointed member of a multiple member body or employee of the town not covered by the terms of a collective bargaining or other agreement addressing removal, and whether appointed for a fixed or an indefinite term, may be removed from office by the appointing authority.
- (b) The appointing authority, when removing any such officer, appointed member of a multiple member body or employee of the town, shall act in accordance with the town's personnel by-laws or rules and regulations.

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