

# Final Report of the Bourne Charter Commission

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## ***BALLOT QUESTION AND SUMMARY***

The following question and summary will appear on the ballot at the April 4, 2001 town election.

**QUESTION:** Shall this town approve the new charter recommended by the charter commission summarized below?

**YES**

**NO**

## **BALLOT SUMMARY:**

1. The Charter continues an Open Town Meeting, in keeping with the New England tradition of

democracy, where any registered voter may attend and vote.

2. The Charter provides for a five member Board of Selectmen who, as Chief Executive Officers, will continue to serve as the principal goal setting and policymaking board of the town.

3. The Charter provides for a Town Administrator appointed by the Selectmen, who will implement the day-to-day administrative operation of the town and provide broad fiscal oversight and effective coordination, based on the policies established and decisions made by the Board of Selectmen.

4. The Charter provides for a Department of Finance headed by a Finance Director to improve financial accountability and oversee all fiscal and financial activities of all town government agencies. The Department of Finance will include and coordinate the functions of Accountant, Treasurer, Collector and Assessors.

5. The Charter provides for a Voter Handbook for public distribution containing specific financial information, departmental goals, financial forecasting and all warrant articles.

6. The Charter defines administrative and financial procedures and establishes regular public hearings on the operating and capital budgets.

7. The Charter makes the Treasurer, Town Collector and Board of Assessors appointive; changes the term of the Planning board to three years.

8. The Charter provides for an orderly transition in which all elected officials shall serve out their terms as well as provisions to protect the rights of those who have served the town well in recent years.

## *Town of Bourne*

### *Charter Commission*

#### **INTRODUCTION TO THE CHARTER**

#### **FOR THE VOTERS OF BOURNE**

The Year 2000 marked the beginning of a new millennium. It is fitting that on April 5<sup>th</sup> of that year, the voters of Bourne elected nine citizens to a charter commission to frame a new beginning for Bourne by establishing a Home Rule Charter. The Year 2001 marks the successful completion of the millennium's first year and the successful completion of the task of the charter commission. It is with much pleasure that we submit the Final Report of the Charter Commission to the voters of Bourne.

The nine members of the Bourne Charter Commission represent a good cross-section of the town's residents. Among the nine are persons with family roots that go back generations as well as persons who are relatively newcomers to Bourne. Among the nine are persons who have served the town in a variety of elected and appointed capacities, including a current and several former Selectmen and a former Town Clerk and Treasurer. Also among the nine are members who have not previously served in any Town office.

We have brought to the table a large body of experience, viewpoints and perspective and from it we have shaped a mechanism by which we believe the Town of Bourne will be better able to meet the challenges and opportunities of this millennium effectively and efficiently.

Since the commission began its work eleven months ago, with a commitment to serious and constant public outreach, it has held a total of forty-four public meetings. Public participation was encouraged at the start and end of each full-commission meeting. In addition, the commission began its deliberations with the first public hearing on May 17, 2000, published in the Bourne Enterprise, which continued for four sessions. All full-commission meetings and public hearings were televised and aired on the local cable TV station. Meeting dates, meeting minutes, survey results and a complete copy of the Preliminary Charter were posted on the Internet along with a postal and an e-mail address to the charter commission.

In its continued quest for public input, in June 2000 the commission conducted a broad-based survey of residents, receiving responses to the survey from about 1,100 households. In the weeks that followed, the charter commission met with elected and appointed town officials, chairmen of elected and appointed boards and committees, and officials from neighboring communities. We thank everyone who appeared before us during the period of fact-finding.

The second public hearing was held on January 8, 2000 one month after the Preliminary Charter was published in the Bourne Enterprise and made available to the public. The Final Charter reflects certain changes the commission felt were necessary based on comments and questions raised at the January public hearing.

After considering public comments made at our early meetings and, after analyzing the surveys and sharing our own views of town government, the commission concluded that of greatest importance was:

- to preserve the best of the past, while meeting the challenges of the future,

- to provide a government that will enhance coordination and facilitate effective management,
- to ensure accountability throughout town government,
- to provide improvements in financial management, administration and fiscal planning, and
- to promote citizen participation and greater access to the Board of Selectmen.

To accomplish the goal of a more responsive and accountable government, some specific aspects of town government need to be changed. The majority of the commission believes the proposed charter does just that. The key features of the charter provide that:

- The Open Town Meeting will be retained, keeping with the New England tradition of democracy, where any registered voter may attend and vote. All voters will continue to have a direct voice and vote in the most important body of the government on such matters as the town budget, zoning bylaws, general town bylaws and much more.
- The present three-member "full-time" Board of Selectmen will become a "part-time" five-member Board. The Board of Selectman will continue to serve as the principal goal setting and policy-making board of the town while relinquishing its day-to-day management responsibilities. Its role is defined very clearly in the charter and under broad guidelines established by town meeting. The charter also strengthens the Board of Selectmen by providing that the Selectmen may re-organize certain aspects of town government as necessary, to meet new conditions.
- The position of Town Administrator is established, appointed by and made responsible to the Board of Selectmen. The Administrator is assigned various administrative responsibilities currently performed by the Selectmen. This, in turn, will allow the Board of Selectmen to focus more of its attention on policy matters and broad community goals.
- A Finance Department is established and all financial and oversight functions of the town government are brought under one department to include accounting, treasury management, tax collection and assessing.
- Preparation of a Voter Handbook is mandated so that the voters are provided with the maximum amount of information regarding the operating budget, the capital improvement program, anticipated revenues and all other warrant articles, prior to the Annual Town Meeting.
- Key elected positions are continued with the exception of Treasurer and Town Collector which have become appointive positions, in keeping with the desire for a professional finance team.
- The terms for Planning Board members are changed from five to three years.

- The charter provides for an orderly transition over three years to the new form of government. All currently elected individuals will be able to serve out their full terms.

## **EXPLANATION OF THE PROPOSED CHARTER**

We urge all voters to read the full text of this charter in order to fully understand it, since it is impossible to summarize all the features of this document. However, following is a brief article-by-article summary.

### **ARTICLE 1: EXISTENCE AND AUTHORITY**

This article secures all the powers possible for the Town of Bourne to have and to exercise as well as the maximum advantage of municipal home rule.

### **ARTICLE 2: LEGISLATIVE BRANCH**

This article retains the Open Town Meeting. It delineates and codifies a specific procedure for the initiation and closing of the warrant so that all matter filed in a timely fashion are included and evaluated by the appropriate boards. It creates a "Voter Handbook" to provide the public a complete view of all matters to come before town meeting and a thorough discussion of revenues, budgets and financial plans.

### **ARTICLE 3: EXECUTIVE BRANCH, BOARD OF SELECTMEN**

Continues the elected Board of Selectmen as the chief executive body of town government but expands the board from three to five members to allow more citizen participation. Creates a five-member Board of Selectmen with all the executive powers vested in such boards by the Massachusetts General Laws, and by Town by-law, by vote of Town Meeting and by charter. The Board of Selectmen will continue to be responsive to the electorate, and as a reflection our desires, set policy and establish goals for the town. The Board of Selectmen will continue to have the same broad appointing powers they currently exercise. The Board of Selectmen appoint and, if required, remove the Town Administrator. It is the intention of this commission that the five-member board be paid a stipend, with an additional sum to the chairman.

### **ARTICLE 4: TOWN ADMINISTRATOR**

This article provides for the appointment of a Town Administrator as "the primary officer responsible for the implementation of the policy directives of the Board of Selectmen." As the "chief administrative officer of the town," the Town Administrator has numerous duties under this charter. The Town Administrator may delegate any responsibility afforded by this charter to a subordinate or employee, but is held responsible for all acts performed by that subordinate. The Town Administrator may be removed

by a vote of four selectmen. The removal process may be as fast as 10 days or take up to 45 days. By setting the standard for the removal of a town administrator high, it is the intention of the commission to avoid frivolous or politically motivated attempts at removal. If there are egregious problems with a town administrator, a higher standard will be easily met.

## **ARTICLE 5: ADMINISTRATIVE ORGANIZATION**

Creates a mechanism for the organization and reorganization of town departments and agencies through the action of the Town Administrator and the Board of Selectmen, who hold one or more public hearings on any organizational plan. This article retains the Department of Public Works and the Department of Integrated Solid Waste Management. It creates a Department of Finance directed by a Director of Finance, who also serves as the Town Accountant, and who is responsible to the Town Administrator. This will consolidate and effectively coordinate the currently separate departments of town accountant, treasurer, collector and assessor. The commission created a Department of Finance in direct response to concerns expressed by the public and by members of the Board of Selectmen. Article 5 also creates an appointed Board of Assessors, Treasurer and Town Collector.

## **ARTICLE 6: OTHER ELECTED TOWN BOARDS AND OFFICERS**

This article retains the Moderator, Town Clerk and Constable as elected officers as well as the School Committee, Board of Health, Planning Board, Housing Authority, Recreation Authority, Trustees of Jonathan Bourne Library, Trustees of Soldier s Memorials, and Upper Cape Cod Regional Vocational Technical School Committee. It changes the length of term of Planning Board members to three years. It is the intention of the commission, upon the expiration of the town clerk s current term in April 2003, that the position of Town Clerk be funded at a level comparable to other town department heads.

## **ARTICLE 7: FINANCIAL AND FISCAL PROCEDURES**

This article provides a procedure for the creation and review of the proposed operating budget, capital budget and capital improvement plan. It outlines the responsibilities of the Town Administrator, Board of Selectmen, School Committee and Finance Committee in the annual budget process. It requires the Finance Committee to hold a public hearing on the proposed operating, capital and school budgets and to provide copies of their detailed recommendations in a report available to the public 21 days before the Annual Town Meeting. The report will be incorporated in the Voter Handbook.

## **ARTICLE 8: GENERAL PROVISIONS**

This article contains a provision for a Charter review every five years. It also contains some general standards, including definitions of key words and phrases used in the Charter and standard procedures governing the operation of multiple member bodies.

## **ARTICLE 9: RECALL PROVISIONS**

This article retains the Recall Provision already in place in the town by-laws.

## **ARTICLE 10: TRANSITIONAL PROVISIONS**

This article provides for the orderly transition to the new town government structure. A special election will be held in June 2001 to elect two additional Selectmen; incumbents in elective offices that will become appointive (Treasurer, Town Collector, Board of Assessors) will serve out their terms of office; a search committee is established to assist the Selectmen in the search for the first Town Administrator; town employees will continue in their positions; existing town by-laws and special acts applying to Bourne will continue except where they may conflict with the charter.

## **CONCLUSION**

The charter we are proposing is real and tangible. You can hold it in your hands; you can read all of its provisions; you can see how each office is chosen and how powers, duties and responsibilities of the various elements of the government relate to each other. Our criticism is directed at the structure of the existing government and not at the individuals who make it work day-to-day. We applaud the dedication and hard work of both our current and past elected officials and employees, but we recognize that change is seldom comfortable.

We feel that the proposed charter offered here for your review and consideration, is an excellent first step into the new millennium for the Town of Bourne. Again we urge you to read the full text of this document. We believe that after you evaluate it, you will reach the same conclusion as we did. The operation of town government, the financial stability and the quality of life of the people of Bourne will be greatly enhanced by the proposed charter.

As citizens, we are honored to serve our community. As Charter Commissioners, we know that you will agree the time for change is now. We urge you to vote YES on April 4<sup>th</sup> to adopt the Home Rule Charter for the Town of Bourne.

Signed February 5, 2001

### **IN FAVOR:**

Lucia Fulco, Chairperson

Peter Fisher, Vice Chairman

### **OPPOSED:**

Robert Parady

Charles Perry

Reginald Judson, Clerk

Richard Anderson

Zola Carr

James Malatos

**Absent:**

W. Thomas Barlow

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**FINAL REPORT**  
**OF**  
**THE CHARTER COMMISSION**  
**BOURNE, MASSACHUSETTS**

**February 5, 2001**

**PREAMBLE**

We, the people of Bourne, in order to reaffirm the customary and traditional liberties of the people with respect to the conduct of our local government and to take the fullest advantages inherent in the home rule amendment to the constitution of the Commonwealth, do hereby adopt the following home rule charter for the Town of Bourne.

**Article 1**

**Existence and Authority**

**Section 1-1: Incorporation**

The inhabitants of the Town of Bourne within the territorial limits established by law, shall continue to be a body corporate and politic under the name "Town of Bourne."

**Section 1-2: Charter and Form of Government**

This instrument shall be known and may be cited as the Bourne Home Rule Charter. The Charter provides for an Open Town Meeting/Selectmen/Town Administrator form of government.

**Section 1-3: 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 Town Administrator. The legislative powers shall be exercised by an Open Town Meeting.

## **Section 1-4: Powers of the Town; Intent of the Voters**

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

## **Section 1-5: Interpretation of Powers**

The powers of the town under this charter shall be construed and interpreted liberally in favor of the town, and the specific mention of any particular power is not intended to limit in any way the general powers of the town as stated on section 1-4.

## **Section 1-6: Intergovernmental Relations**

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

# **Article 2**

## **Legislative Branch**

### **Section 2-1: Open Town Meeting**

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

### **Section 2-2: Presiding Officer**

The Moderator, elected as provided in Section 6-2, shall preside at all sessions of the Town Meeting, shall regulate the proceedings at Town Meeting, decide all questions of order, and make public declaration of all votes.

### **Section 2-3: Time of Meetings**

The annual Town Meeting shall convene at such time as provided by by-law of the town. Special Town Meetings shall be convened at such times as may be called by the Board of Selectmen, by petition of

registered voters as provided by law, or at such time or times as may be provided by by-law of the town.

#### **Section 2-4: Warrants**

Every Town Meeting shall be called by a warrant issued by the Board of Selectmen, which shall state the date, time and location at which the meeting is to convene, and by separate articles, the subject matter to be acted upon. The publication of the warrant for every Town Meeting shall be in accordance with town by-law governing such matters.

#### **Section 2-5: Initiation of Warrant Articles**

(a) Initiation - The Board of Selectmen shall receive at any time and insert in the warrant all petitions addressed to it which request the submission of any matter to the Town Meeting and which are submitted to it by: (1) any elected town officer; (2) any town elected or appointed multiple member body acting by vote of a majority of its members; (3) petition of registered voters as provided by law; and, (4) the Town Administrator.

(b) Time for Closing Town Meeting Warrants - The Board of Selectmen shall close the Warrant not less than seventy-five (75) days prior to the date for the annual Town Meeting, and not less than forty-five (45) days prior to the date for any special Town Meeting. By four-fifths vote, the Board of Selectmen may waive the aforementioned requirements for the special Town Meeting, in case of emergency.

(c) Availability of the Voter Handbook - The Voter Handbook shall include the text of any annual or special Town Meeting warrant with the recommendations and counted votes of the Finance Committee, Board of Selectmen, and any other appointed or elected board or committee proposing an article. In the Voter Handbook for the Annual Town Meeting the Selectmen shall include the recommended operating budget with revenue projections, the departmental goals for the upcoming fiscal year, and five year financial, debt and capital projections. The **Voter Handbook** shall be available to the public at town hall and the public library not less than fifteen (15) days prior to the **Annual** Town Meeting.

#### **Section 2-6: Availability of Town Officials at Town Meetings**

Town officers, members of boards and commissions, department heads, or their duly designated representatives, shall attend Town Meeting for the purpose of furnishing information when proposals affecting their particular office, board, commission, or department are included in the warrant.

#### **Section 2-7: Clerk of the Meeting**

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

## **Section 2-8: Rules of Procedure**

Except for provisions addressed in this charter, the Town Meeting may, by by-law, establish and from time to time amend, revise or repeal rules to govern the conduct of all Town Meetings.

## **Section 2-9: Finance Committee**

A Finance Committee shall be appointed as provided by by-law. Town of Bourne employees, including school employees, shall not be eligible for appointment to, or service on, the Finance Committee. The Finance Committee shall choose from its members a chairperson and fill such other offices as it may create.

# **Article 3**

## **Executive Branch, Board of Selectmen**

### **Section 3-1: Term of Office, Composition**

There shall be a Board of Selectmen consisting of five members elected for three (3) year terms, so arranged that as nearly an equal number of terms as possible shall expire each year. The Board of Selectmen shall also serve as Sewer Commissioners.

### **Section 3-2: Vacancy**

A vacancy in the office of Selectmen shall be filled in accordance with General Law.

### **Section 3-3: Policy Role**

The Board of Selectmen shall serve as the goal setting and policy-making agency of the town and shall appoint a Town Administrator to carry out such policies. Individual selectmen shall have no independent authority unless specifically voted by the Board of Selectmen. Selectmen shall deal with administrative agencies and departments through the Town Administrator.

### **Section 3-4: Powers and Duties**

Except as otherwise provided by this charter, all executive powers of the town shall be vested in the Board of Selectmen and it shall have all of the powers and duties given to Boards of Selectmen under

the constitution and general laws of the Commonwealth, and such additional powers and duties as may be authorized by this charter, by by-law, or by Town Meeting vote. The Board of Selectmen shall cause the laws and orders for the government of the town to be enforced and shall cause a record of all its official acts to be kept.

### **Section 3-5: Appointing Powers**

The Board of Selectmen shall appoint the Town Administrator, Town Counsel, Registrars of Voters, Constables, and members of all multi-member bodies for whom no other appointment provision is made in this charter or by by-law.

All appointed boards, committees and commissions, appointed by the Board of Selectmen, shall be responsible to the Board of Selectmen.

### **Section 3-6: Prohibitions**

No member of the Board of Selectmen shall serve on any appointed town board established by this charter or by by-law for which the Board of Selectmen is the appointing authority, except by an affirmative vote of three (3) of the members of the Board of Selectmen.

### **Section 3-7: Intergovernmental Relations**

Members of the Board of Selectmen will represent the town on federal, state, regional and inter-municipal committees, or may designate a town employee or other person to represent the town.

## **Article 4**

### **Town Administrator**

#### **Section 4-1: Appointment; Qualification; Term**

The Board of Selectmen shall appoint, by an affirmative vote of four (4) members, a Town Administrator for an indefinite term and fix his/her compensation within the amount annually appropriated for this purpose. The office of the Town Administrator shall not be subject to the Personnel by-law. The Town Administrator shall be appointed solely on the basis of executive and administrative qualifications.

The Town Administrator shall be a professionally qualified person of proven ability, especially fitted to perform the duties of the office by education, training and previous

experience in municipal administration. The Town Administrator shall have a Bachelors Degree, preferably a Masters Degree, in Public Administration, Business Management or related field; at least seven (7) years experience in an upper level executive municipal position; or equivalent combination of education and experience.

The Administrator shall devote full time to the office and shall not hold any other public office, elective or appointive, or engage in any other business or occupation during his or her term, unless such action is approved in advance, in writing, by the Board of Selectmen. The town may from time to time, by by-law, establish such additional qualifications as seem necessary and appropriate.

#### **Section 4-2: Relationship of the Town Administrator and the Board of Selectmen**

The Town Administrator shall be the primary officer responsible for the implementation of the policy directives of the Board of Selectmen. The daily administration of the affairs of the town shall be the responsibility of the Town Administrator.

#### **Section 4-3: Vacancy in Office**

Any permanent vacancy in the office of Town Administrator shall be filled as soon as possible by the Board of Selectmen. Pending the appointment of a Town Administrator, the Board of Selectmen shall, within thirty (30) days, appoint some other qualified person to serve as the Acting Town Administrator.

#### **Section 4-4: Temporary Absence**

The Town Administrator may, by letter filed with the Town Clerk and Board of Selectmen designate as Acting Town Administrator, a qualified officer of the town to perform the duties of the Town Administrator during a temporary absence or disability. If such absence or disability exceeds thirty (30) days, any designation made by the Administrator shall be subject to the approval of the Board of Selectmen. In the event of failure of the Town Administrator to make such designation, or if the person so designated is unable to serve, the Board of Selectmen may designate some other qualified person to perform the duties of the Town Administrator until the Town Administrator shall return.

#### **Section 4-5: Procedures for Removal of Town Administrator**

The Board of Selectmen, by an affirmative vote of four (4) of its members, may initiate the removal of the Town Administrator by adopting a preliminary resolution of removal. Said resolution shall set forth in reasonable detail the reason or reasons for said removal. The preliminary resolution may suspend the Administrator for a period not to exceed thirty (30) days. The resolution shall be delivered to the Administrator forthwith upon its adoption.

The Administrator, within five (5) days of receipt of the resolution of removal, may request a public

hearing by the Board of Selectmen on the reasons stated in the resolution of removal. The Board of Selectmen shall convene the requested hearing not less than seven (7) nor more than thirty (30) days after receipt of the request by the Town Administrator. The Town Administrator may be represented by counsel of his or her choice, may call witnesses, may question witnesses and may file a statement on his or her behalf.

If the Town Administrator does not request a public hearing then the Board of Selectmen may adopt a final resolution of removal not earlier than ten (10) days after the delivery of the preliminary resolution of removal and not later than twenty (20) days after the delivery of the preliminary resolution. If the Town Administrator does request a public hearing, then the Board of Selectmen may adopt a final resolution of removal not earlier than five (5) days nor later than ten (10) days after the close of the public hearing. A final resolution of removal must have an affirmative vote of four (4) members of the Board of Selectmen. Failure to adopt a final resolution of removal within the time limits set forth herein shall nullify the preliminary resolution of removal.

The action of the Board of Selectmen in suspending or removing the Town Administrator shall be final. The Administrator shall continue to receive his or her salary until a final resolution of removal becomes effective.

#### **Section 4-6: Powers and Duties**

The Town Administrator shall be the chief administrative officer of the town. The Town Administrator shall be responsible to the Board of Selectmen for the proper administration of all town affairs placed in his or her charge by or under the charter. The Town Administrator shall have the following powers and perform the following duties:

- a. implement and carry out all policies and goals established by the Board of Selectmen;
- b. appoint and, in appropriate circumstances, remove, subject to civil service laws and collective bargaining agreements where applicable, all department heads and employees as well as members of the Board of Assessors and other employees for whom no other appointment provision is made in this charter. Appointments made by the Town Administrator shall be effective on the fifteenth (15) day following the day of the notice the appointment is filed with the Board of Selectmen, unless the Board of Selectmen shall within that period, by the majority vote of the board, reject such appointment. Appointments of a temporary or seasonal nature shall become effective immediately;
- c. recommend to the Board of Selectmen candidates for appointment to the position of: Treasurer, Town Collector, Finance Director, Principal Assessor, Fire Chief and Police Chief;
- d. prepare and submit an annual operating budget and capital improvement program and budget, in accordance with Sections 7-1 and 7-2 of this charter;
- e. investigate or inquire into the affairs of any town department under his jurisdiction or when authorized by the Board of Selectmen, investigate or inquire into the affairs of any town department;

- f. attend all regular and special meetings of the Board of Selectmen, unless unavailable for reasonable cause, and shall have a voice, but no vote, in all of its proceedings;
- g. keep the Board of Selectmen fully informed as to the needs of the town and make recommendations to the board;
- h. inform the Board of Selectmen on departmental operations, fiscal matters, administrative actions and provide regular periodic reports to the Board of Selectmen;
- i. inform the Board of Selectmen of the availability of public and private funding opportunities;
- j. administer personnel policies, practices, and rules and regulations, any compensation plan and any related matter for all municipal employees, except school employees;
- k. be responsible for the negotiation, administration and enforcement of collective bargaining agreements and other employment agreements, exclusive of the schools, on behalf of the Board of Selectmen;
- l. have jurisdiction over all town property, insuring that a full inventory of all real and personal property is kept excluding property under the jurisdiction of the school committee;
- m. shall be responsible for and oversee the purchase of all supplies, materials, services and equipment, and approve the award of all contracts for all town departments;
- n. fix the compensation of all town employees and officers appointed by the Town Administrator within the limits of the town s compensation plan and/or collective bargaining agreements and other employment agreements;
- o. coordinate the activities of all appointed and elected boards, committees and commissions and may require elected boards and individuals to meet with and provide information to the Town Administrator, at reasonable times for the purpose of coordination and financial planning;
- p. may create new full time, compensated positions subject to the approval of the Board of Selectmen and funding by town meeting;
- q. supervise, direct and be responsible for the efficient administration of all officers appointed by the Town Administrator and their respective departments, and for all functions for which the Town Administrator is given responsibility, authority or control by this charter, by by-law, by Town Meeting vote or by vote of the Board of Selectmen;
- r. delegate, authorize or direct any subordinate or employee appointed by the Town Administrator to exercise any power, duty, or responsibility which the office of the Town Administrator is authorized to exercise, provided that all acts that are performed under such delegation are deemed to be the acts of the Town Administrator;
- s. administer and enforce either directly or through a person or persons supervised by the Town Administrator, in accordance with this charter all provisions of the laws of the Commonwealth applicable to the town, all by-laws, and all regulations established by the Board of Selectmen;
- t. attend all sessions of the Town Meeting to answer all questions addressed to the Town Administrator and which are related to warrant articles and matters of general supervision of the Town Administrator.

## **Article 5**

# **Administrative Organization**

## **Section 5-1: Table of Organization**

The Town Administrator shall prepare, for submission to the Board of Selectmen, a table of organization establishing personnel requirements within the town agencies created by the charter, by by-law or by administrative code. The table of organization shall become effective unless rejected by the Board of Selectmen within thirty (30) days following its submission.

## **Section 5-2: Organization of Town Government**

Subject only to the express prohibitions in the constitution, general laws or the charter, the Board of Selectmen, after consultation with the Town Administrator, may prepare a plan to organize, reorganize, consolidate or abolish any town agency as it deems necessary or advisable. It may prescribe the functions of any town agency and, for such purpose, transfer the powers and duties and, so far as is consistent with the use for which the funds were voted by the town, transfer the appropriations of one town agency to another; provided, however, that no function assigned by the charter to a particular town agency may be discontinued, or unless the charter specifically so provides, assigned to any other. The Board of Selectmen shall not be prohibited by this charter from including the Department of Public Works and or the Department of Integrated Solid Waste Management in any plan to organize, reorganize, consolidate or abolish any town agency it may deem necessary or advisable in accordance with the provisions of Section 5-2 of this charter.

## **Section 5-3: Public Hearing and Effective Date**

Whenever the Board of Selectmen prepares such a plan, it shall hold one or more public hearings on the proposal, giving notice by publication in a local newspaper at least seven (7) days in advance of such hearing. The notice shall describe the scope of the proposal as well as the date and place where the hearing will be held. The proposed organization shall become effective no sooner than ninety (90) days following the public hearing.

## **Section 5-4: Department of Public Works**

(a) Establishment - There shall be a Department of Public Works responsible for those public works functions described in this Article and as may be assigned from time to time by the Board of Selectmen, Town Administrator and Town Meeting.

(b) Superintendent of Public Works - The Department of Public Works shall be under the direct control of a Superintendent of Public Works who shall be appointed by and who shall be directly responsible to the Town Administrator. The Superintendent of Public Works shall be a registered civil engineer, or a person otherwise especially suited by education, training or previous experience to perform the duties of the office.

The Superintendent of Public Works shall keep full and complete records of the doings of his office and shall render a report of all operations under his control to the Town Administrator and Board of Selectmen as may be required. He shall keep the Town Administrator fully advised as to the needs of the town within the scope of his duties.

The position of Superintendent of Public Works shall be a permanent classified position under the salary administration plan by-law, as from time to time amended and supplemented.

(c) Scope and Functions - The Department of Public Works shall include, but not be limited to, the following functions: highways and streets; storm drains; tree and park maintenance; public sewers; rubbish collection; maintenance and repair of town buildings, except school buildings unless requested by the School Committee and approved by the Board of Selectmen.

(d) Policy - The Board of Selectmen, acting through the Town Administrator, shall establish priorities and policies to govern the operation of the Department of Public Works.

### **Section 5-5: Department of Integrated Solid Waste Management**

(a) Establishment - There shall be a Department of Integrated Solid Waste Management responsible for those solid waste functions described in this article and as may be assigned from time to time by the Board of Selectmen, Town Administrator and Town Meeting.

(b) General Manager - The Department of Integrated Solid Waste Management shall be under the direct control of a General Manager who shall be appointed by and directly responsible to the Town Administrator. The General Manager shall be qualified by education, training and previous experience to perform the duties of the office.

The General Manager shall keep full and complete records of the doings of his office and report on all operations under his control to the Town Administrator and Board of Selectmen as may be required. He shall keep the Town Administrator fully advised as to the needs of the town within the scope of his duties.

The position of General Manager of solid waste shall be a permanent classified position under the salary administration plan by-law as from time to time amended and supplemented.

(c) Scope and Functions - The Department of Integrated Solid Waste Management shall include, but not be limited to, the following functions: sanitary landfill; composting and recycling.

(d) Policy - The Board of Selectmen, acting through the Town Administrator, shall establish priorities and policies to govern the operation of the Department of Integrated Solid Waste Management.

## **Section 5-6: Department of Finance**

(a) Establishment and Scope - There shall be a Department of Finance responsible for the fiscal and financial affairs of the town and for the coordination and overall supervision of all fiscal and financial activities of all town government agencies. The Department of Finance shall include the functions of Accountant, Treasurer, Collector and Assessors.

The Department of Finance shall be responsible for, and shall include, the following functions:

1. coordination of all financial services and activities of town government;
2. maintenance of all accounting records and other financial statements for all town government offices and agencies;
3. payment of all financial obligations on behalf of the town;
4. investment of town funds and management of debt;
5. receipt of all funds due to the town from any source;
6. maintenance of the system of property valuation under the direction of the Board of Assessors;
7. rendering of advice, assistance, guidance and recommendations to all other town offices and agencies in any financial or fiscal affairs;
8. monitoring throughout the fiscal year of the expenditure of funds by town offices and agencies;
9. under the direction of the Town Administrator, supervise the purchase of all goods, services, materials and supplies by the town;
10. general supervision of related data processing functions, activities and equipment of town government offices and agencies; and
11. such additional functions as from time to time may be assigned by the Town Administrator and Board of Selectmen.

(b) Director of Finance - The Director of Finance shall be appointed as provided in Section 4-6(c). The Director of Finance shall be especially fitted by education, training, and experience to perform the duties of the office. The first Director of Finance shall also serve as Town Accountant. Successive Directors of

Finance may serve as Town Accountant, Treasurer, Town Collector or Principal Assessor, but the Finance Director may not serve as Town Accountant and Treasurer or as Town Accountant and Town Collector simultaneously.-

At the discretion of the Town Administrator, the Director of Finance may serve as the head of any division within the department. The Town Administrator may also designate a person to serve as head of more than one (1) division within the department.

The Director of Finance shall be responsible to the Town Administrator for the effective operation of the Department of Finance and all fiscal and financial activities of town government. The Director shall coordinate and provide overall supervision for all activities of the department and, in consultation with the Town Administrator, shall have the authority to direct and assign all personnel serving in that department.

The Director of Finance shall be responsible to the Town Administrator and shall have the following specific powers and duties, subject to the direction of the Town Administrator:

1. coordination of the financial functions of all departments and agencies and supervision of the following functions: accounting, treasury, tax collections, assessing, related data processing, budgeting and procurement; ensure that each function is operating efficiently and in accordance with the applicable statute, by-law, code accepted practice;
2. accountability for planning, organizing and providing administrative direction for all financial functions;
3. working with the Town Administrator and the Board of Selectmen in developing strategic financial plans and policies;
4. compilation and submission of an annual operating budget and an annual capital improvement plan to the Town Administrator. The Director shall receive all requests made for the expenditure of town funds from every town office and agency and shall assemble all such requests into a form deemed to be best suited to show a complete financial plan for all town funds and activities for the ensuing fiscal year. The proposed budget shall show in detail all estimated income from the proposed property tax levy and from every other source by category; and
5. general oversight, throughout the year, of the expenditure of all town funds pursuant to such budgets and expenditures as authorized by town meeting.

( c ) Board of Assessors There shall be a Board of Assessors, consisting of three members, appointed by the Town Administrator for overlapping terms of three years. The Board of Assessors shall have all of the duties and responsibilities assigned to Boards of Assessors by Massachusetts General Law.

(d) Town Accountant - There shall be a Town Accountant appointed as provided for in Section 4-6(b). The Town Accountant shall be qualified in accordance with the General Laws and shall have a Bachelor s Degree in accounting and at least three years prior full time accounting experience. The Town Accountant shall have the powers and duties conferred upon Town Accountants by General Laws. The Town Accountant shall be responsible to the Finance Director and in turn to the Town Administrator for the proper performance of his or her duties.

(e) Treasurer There shall be a Town Treasurer appointed as provided for in Section 4-6[c] and Section 10-5[g]. The Treasurer shall be especially fitted by education, training and experience to perform the duties of the office. The Treasurer shall have the powers and duties conferred and imposed upon Town Treasurers by General Laws, this Charter and Town Bylaws. The Treasurer shall be responsible to the Finance Director and in turn to the Town Administrator for the proper performance of his or her duties.

(f) Town Collector There shall be a Town Collector appointed as provided for in Section 4-6[c] and Section 10-5[g]. The Town Collector shall be especially fitted by education, training and experience to perform the duties of the office. The Town Collector shall have the powers and duties conferred upon Town Collectors and Tax Collectors by General Laws, this Charter and Town Bylaws. The Town Collector shall be responsible to the Finance Director and in turn the Town Administrator for the proper performance of his or her duties.

## **Article 6**

### **Other Elected Town Boards and Officers**

#### **Section 6-1: Other Elected Town Boards and Officers**

(a) General Provisions - Following the adoption of this charter, the only officers to be elected shall be the Town Moderator, Town Clerk and a Constable.

(b) Town boards to be elected in addition to the Board of Selectmen shall be:

1. School Committee
2. Board of Health
3. Planning Board
4. Housing Authority

5. Recreation Authority
6. Trustees of Jonathan Bourne Library
7. Trustees of Soldier s Memorials
8. Upper Cape Cod Regional Vocational Technical School Committee
9. Such town members of regional districts, multi-member bodies and authorities as are now, or may be, established as elective offices by General Law, vote of Town Meeting or intergovernmental agreement.

### **Section 6-2: Moderator**

A Town Moderator shall be elected at the Annual Town Election for a one (1) year term.

The Moderator, as provided in Section 2-2 shall be the presiding officer at Town Meeting. He shall have all the powers and duties given to moderators under the constitution and general laws of the Commonwealth and such additional powers and duties as may be authorized by this charter, by by-law or by other Town Meeting vote.

He shall perform such other duties as may from time to time be assigned to the office of Moderator by by-law or other vote of the Town Meeting.

### **Section 6-3: Town Clerk**

A Town Clerk shall be elected at the Annual Town Election for a three (3) year term.

The Town Clerk shall keep the official records of the town, record vital statistics, issue licenses and shall be the clerk of the board of registrars of voters. The Clerk shall have the powers and duties of Town Clerks as provided by general law, this charter, by by-law and vote of the Town Meeting.

### **Section 6-4: Constable**

There shall be one Constable elected for a three (3) year term.

The Constable shall have all of the powers and duties given to Constables under the constitution and general laws of the Commonwealth and such additional powers and duties as may be authorized by the charter, by by-law or by other Town Meeting vote.

### **Section 6-5: School Committee**

A School Committee of seven (7) members shall be elected for three (3) year overlapping terms.

The School Committee shall have general charge of all public schools in the town and shall have the powers and duties school committees are given under the constitution and general laws of the Commonwealth and such additional powers and duties as may be authorized by this charter, by by-law or by other Town Meeting vote.

### **Section 6-6: Board of Health**

There shall be a board of health consisting of five (5) members. All members shall serve for three (3) year overlapping terms.

The Board of Health shall be responsible for the formulation and enforcement of rules and regulations affecting the environment and the public health. It shall have all the powers and duties given to Boards of Health under the constitution and general laws of the Commonwealth, and such additional powers and duties as may be authorized by the charter, by by-law or by other Town Meeting vote.

### **Section 6-7: Planning Board**

There shall be a planning board consisting of nine (9) members elected for three (3) year overlapping terms.

The Planning Board shall make studies and prepare plans concerning the development of the town. The Planning Board shall prepare the town Local Comprehensive Plan and submit it to the Town Meeting. It shall hold public hearings and make recommendations to Town Meeting on all warrant articles seeking to amend the town zoning by-law. The Planning Board shall have all of the powers and duties given to Planning Boards under the constitution and general laws of the Commonwealth, and such additional powers and duties as may be authorized by the charter, by by-law or by other Town Meeting vote.

### **Section 6-8: Housing Authority**

There shall be a Housing Authority consisting of five (5) members. Four (4) of the members shall be elected and the fifth member shall be appointed by the Secretary of the Department of Housing and Community Development or as otherwise provided by law. Housing authority members shall serve three (3) year terms so arranged that as nearly an equal number of terms as possible shall expire each year.

The Housing Authority shall have all of the powers and duties given to housing authorities under the constitution and general laws of the Commonwealth and such additional powers and duties as may be authorized by the charter, by by-law or by other Town Meeting vote.

### **Section 6-9: Recreation Authority**

In accordance with Chapter 820 of the Acts of 1970, there shall be a Recreation Authority consisting of five (5) members. One (1) member shall be appointed by the Governor, and four (4) members shall be elected for three (3) year terms.

The Recreation Authority shall have those powers and duties as specified in Chapter 820 of the Acts of 1970, a special act of the Legislature establishing a recreation authority for the Town of Bourne.

### **Section 6-10: Trustees of the Jonathan Bourne Library**

There shall be a library board known as The Trustees of the Jonathan Bourne Library consisting of six (6) members elected for three (3) year overlapping terms.

The Trustees shall have the custody and management of the library and of all property of the town related thereto. All money raised or appropriated by the town for its support and maintenance shall be expended by the Trustees, and all money or property that the town may receive for the library by gift or bequest shall be administered by the Trustees in accordance with the provisions of such gift or bequest. The Trustees of the Jonathan Bourne Library shall have all of the powers and duties given to boards of library trustees under the constitution and general laws of the Commonwealth, and such additional powers and duties as may be authorized by the charter, by by-law or by other Town Meeting vote.

### **Section 6-11: Trustees of the Soldier s Memorials**

In accordance with the provisions of Chapter 41, Section 105 of the general laws, there shall be Trustees of Soldiers Memorials consisting of six (6) trustees, five (5) elected for three (3) year terms, so arranged that as nearly an equal number of terms as possible shall expire each year, and one (1) the Chairman of the Board of Selectmen.

### **Section 6-12: Upper Cape Cod Regional Vocational Technical School Committee**

There shall be two (2) Bourne residents elected to the Upper Cape Cod Regional Vocational Technical School Committee. Members shall serve for a term of three (3) years so arranged that terms of all members of said School Committee shall overlap.

## **Article 7**

### **Finance and Fiscal Procedures**

## **Section 7-1: Budget Process**

Prior to the annual Town Meeting and within a time fixed by by-law, the Town Administrator shall submit to the Board of Selectmen a proposed operating budget and a capital program and capital budget for all town departments, including the School Department, for the ensuing fiscal year. The proposed budget shall be accompanied by a budget message and supporting documents. The budget message shall explain the budget both in fiscal terms and in terms of work programs. The proposed budget shall be balanced and shall show both proposed expenditures and anticipated revenue. The proposed budget shall provide a complete fiscal plan of all town funds and activities and shall be in the form the Town Administrator deems desirable or the board of selectmen require. The proposed budget shall include a listing of the funds requested by town departments and agencies.

The Board of Selectmen shall review the proposed budget and capital plan and make changes as the board deems appropriate prior to transmitting the budget and capital plan to the finance committee.

The School Committee budget shall be submitted to the Town Administrator in sufficient time to enable the Town Administrator to consider the effect of the School Department s requested appropriation on the total town budget and make recommendations on same.

## **Section 7-2: Capital Improvement Program and Capital Budget**

The Town Administrator, in conjunction with any committee established for such purpose, shall annually submit a capital improvement program to the Board of Selectmen prior to the date fixed by by-law and prior to the submission of the operating budget. The capital improvement plan shall include a clear summary of its contents; an itemization of all capital improvements, including those of the School Department, proposed to be undertaken during the next five fiscal years with supporting data; cost estimates, methods of financing and recommended time schedules; and the estimated annual cost of operating and maintaining the facilities included. The first year s budget would be the capital budget.

## **Section 7-3: Long Term Financial Forecast**

The Town Administrator shall prepare annually a five (5) year financial forecast of town revenue, expenditures and general financial condition of the town. The forecast shall include but not be limited to, an identification of factors which impact the financial condition of the town, revenue and expenditure trends; potential sources of new or expanded revenues and any long or short term actions which may be taken that will enhance the financial condition of the town. The forecast shall be submitted to the Board of Selectmen who shall make it available to the public for inspection.

## **Section 7-4: Finance Committee Action**

The Board of Selectmen shall submit the operating budget and the capital improvement program and capital budget to the Finance Committee by a date fixed by bylaw. The Finance Committee shall, upon

receipt of the operating and capital improvement program and capital budget from the Board of Selectmen, consider in public meetings the detailed expenditures for each town department and agency and shall conduct one (1) or more public hearings on the proposed operating and capital budgets, including the school budget. The Finance Committee shall issue its recommendations in a detailed written report, which shall include the fiscal and tax implications of the proposed budget, a statement outlining its support or opposition to the proposed budget or sections of it and its vote by roll call on all warrant articles.

The Finance Committee will make copies of its report available to the voters in town hall and the public library at least twenty-one (21) days prior to the scheduled date of the Town Meeting. The report shall be prepared in sufficient time to be incorporated into the Annual Town Meeting Voter Handbook.

The Finance Committee may request the Town Administrator to provide necessary information from any town agency and the Town Administrator shall promptly respond to such requests. The Office of the Town Administrator will provide staff support to the Finance Committee in issuing its recommendations on the operating budget and capital improvement program.

The budget to be acted upon by the Town Meeting shall be the budget approved by the Board of Selectmen.

### **Section 7-5: Approval of Warrants for Payment**

Warrants for payments of town funds, authorized and prepared by the Town Accountant, shall be submitted to the Town Administrator for approval. The approval of any such warrant by the Town Administrator shall be sufficient authority to authorize payment by the Town Treasurer.

## **Article 8**

### **General Provisions**

#### **Section 8-1: Charter Changes**

(a) Charter Revisions and Amendments: This charter may be replaced, revised or amended in accordance with the procedures made available by Article LXXXIX (89) of the amendments to the constitution of the Commonwealth and any legislation enacted to implement the said amendment.

(b) Periodic Charter Review: At least once in every five years a special committee shall be appointed by the Board of Selectmen for the purpose of reviewing the provisions of the charter and to make a report to the Town Meeting concerning any proposed amendments or revisions which the committee deems

necessary. The committee shall be appointed immediately following an annual Town Meeting and shall make its report at the next annual Town Meeting.

### **Section 8-2: Severability**

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

### **Section 8-3: Specific Provisions Prevail**

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

### **Section 8-4: References to General Laws**

All references to general laws contained in the charter refer to the general laws of the Commonwealth of Massachusetts and are intended to include any amendments or revisions to such chapters and sections or to the corresponding chapters and sections of any rearrangement of the general laws enacted subsequent to the adoption of the charter.

### **Section 8-5: Elections**

The election of town officers and referenda questions shall be acted upon and determined by voters on official ballots, without party designation, on the date fixed in the by-laws of the town.

All elections conducted pursuant to the charter shall be conducted in accordance with the election laws of the Commonwealth of Massachusetts.

### **Section 8-6 Procedures for Multiple Member Bodies**

(a) Meetings - All multiple member bodies of the town whether elected, appointed or otherwise constituted shall meet at such times and in places open to the public within the town as they may by their own rules prescribe. Special meetings of any multiple member body shall be held on the call of the respective chairman or by a majority of the members thereof. Public posting of all meetings shall be made in accordance with the Open Meeting Law of the Commonwealth of Massachusetts. All meetings of all multiple member bodies shall be open to the public and the press, except as may otherwise be authorized by law.

(b) Quorum - A majority of the members of the multiple member body shall constitute a quorum but a smaller number may adjourn from time to time, unless otherwise provided by law.

(c) Minutes - Each multiple member body shall provide for the keeping of minutes of its proceedings. These minutes shall be a public record and a copy of such minutes shall be filed with the office of the Town Clerk.

### **Section 8-7: Computation of Time**

In computing times under the charter, if seven days or less, only business days, not including Saturdays, Sundays or legal holidays shall be counted. If more than seven days, every day shall be counted.

### **Section 8-8: 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 and word importing the masculine gender shall include the feminine gender.

### **Section 8-9: Definitions**

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

**(a) Charter** The word "charter" shall mean this charter and any amendments to it made through any of the methods provided under Article LXXXIX (89) of the amendments to the state constitution.

**(b) Town** The word "town" shall mean the Town of Bourne.

**(c) Town Agency** The word "town agency" or "agency" shall mean any board, commission, committee, department or office of town government, whether elected, appointed or otherwise constituted.

**(d) Town Meeting** The words "Town Meeting" shall mean the Town Meeting of the Town of Bourne established in Article 2 of this charter.

**(e) Library** The word "library" shall mean the Jonathan Bourne Library and any branch or branches that may be established thereof.

**(f) Local Newspaper** The words "local newspaper" shall mean a newspaper of general circulation within the town.

**(g) Multiple Member Body** The words "multiple member body" shall mean any board,

commission or committee consisting of two or more persons, whether elected or appointed.

**(h) Town Officer** The words "town officer" shall mean an elected or appointed official of the town who in the performance of his duties of office exercises some portion of the sovereign power of the town, whether great or small. A person may be a town official whether or not he receives any compensation for his services.

**(i) Voters** The word "voters" shall mean registered voters of the town.

**(j) Majority Vote** The words "majority vote" shall mean, as to the Town Meeting, a majority of those present and voting. As to all multiple member bodies, the affirmative vote of a majority of all its members present and voting shall be necessary to adopt any motion, order, appointment or approval or disapproval, to take any action not entirely procedural in nature, unless otherwise provided by law.

**(k) Voter Handbook** The words "Voter Handbook" shall mean the Voter Handbook established in Section 2-5 ( c) and referenced in Section 7-4.

## **Section 8-10: Rules and Regulations**

A copy of any rules and regulations adopted by any town agency shall be filed in the office of the town clerk and made available for review by any person who requests such information.

## **Article 9**

### **Recall Provisions**

#### **Section 9-1: Application**

Any person who holds elective office in the Town of Bourne may be recalled therefrom by the registered voters of the town in the manner provided herein.

#### **Section 9-2: Recall Petition**

Any four hundred and fifty (450) or more qualified voters of the town may file with the Town Clerk an affidavit containing the name of the elected official sought to be recalled and a statement of the grounds of recall. Said Town Clerk within ten (10) working days shall thereupon deliver to any one or more of the voters making such affidavit a sufficient number of copies of petition blanks demanding such recall. Said blanks shall be issued by the Town Clerk with his signature and official seal attached thereto; they

shall be dated and addressed to the Board of Selectmen of the town; shall contain the name of the official sought to be recalled, the office from which recall is sought, the grounds of recall as stated in said affidavit, and shall demand the election of a successor to such office.

A copy of the petition shall be entered in a record book to be kept in the office of the Town Clerk. Said recall petition shall be returned and filed with the Town Clerk within forty-five (45) days after its issuance.

Said petition before being returned and filed with the Town Clerk shall have been signed by no less than twenty percent (20%) of the qualified voters as of the most recent town election and to every signature shall be added the place of residence of the signer, giving the street and number, if any.

The Town Clerk shall, within five (5) working days following the date of such filing, submit the petition to the registrars of voters and the registrars shall forthwith certify thereon the number of signatures which are names of registered voters as of the date of the most recent town election.

### **Section 9-3: Recall Election**

If the petition shall be found and certified by the Town Clerk to be sufficient, the Clerk shall submit it with the Clerk's certification to the Board of Selectmen without delay. The Board of Selectmen shall forthwith give written notice of receipt of the certificate to the official sought to be recalled. If the official does not resign within five calendar days after receipt of such written notice, the Board of Selectmen shall order a recall election to be held on a date fixed by them not less than sixty (60) nor more than ninety (90) days after the date of the Town Clerk's certificate that a sufficient petition has been filed; provided however that if any other town election is scheduled to be held within one hundred twenty days (120) after the date of the certificate, the Board of Selectmen may, at its discretion, postpone the holding of the recall election to the date of the other town election. If a vacancy occurs in said office after a recall election has been ordered by the Board of Selectmen, the election shall proceed as provided in this section.

### **Section 9-4: Nomination of Candidates**

Any officer whose recall is sought may be a candidate to succeed himself, and unless he requests otherwise in writing, the Town Clerk shall place his name on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the recall election, and the conduct of the same, shall all be in accordance with the general laws related to town elections unless otherwise provided in this Article.

### **Section 9-5: Incumbent Status**

The incumbent shall continue to perform the duties of his office until the recall election. If he is not recalled, he shall continue in office for the remainder of his unexpired term, subject to recall as before,

except as provided in section 9-7.

If the elected official is recalled, he shall be deemed removed upon the qualification of his successor, who shall serve for the balance of the unexpired term of the officer removed. If the successor fails to qualify within five working days after receiving notification of his election, the incumbent shall thereupon be removed and the office vacant.

### **Section 9-6: Propositions on Ballot**

Ballots used in a recall election shall state the following propositions in the order indicated:

For the recall of (name of officer)

Against the recall of (name of officer)

Adjacent to each proposition there shall be a place to vote of either of the said propositions. After the propositions shall appear the word "Candidates", the directions to voters required by section 42 of chapter 54 of the General Laws, as amended and supplemented, and beneath this the names of the candidates nominated as hereinbefore provided. If the elected official who is the subject of the recall petition is a candidate, his name shall be the first listed; all others shall be listed alphabetically. If the majority of the votes cast upon the question recall is in the affirmative, the official shall be deemed to be recalled and the candidate receiving the highest number of votes shall be declared elected. If a majority of the votes cast upon the question of recall is in the negative, the ballots for recall need not be counted.

### **Section 9-7: Time Limitation**

No recall petition shall be accepted by the town for filing against an elected official within six (6) months after he takes office, nor in the case of an elected official subjected to a recall petition and not removed thereby, until at least six (6) months after that recall election.

### **Section 9-8: Limit on Recalled Official**

No person who has been recalled from an office or who has resigned from an office while recall proceedings were pending against him shall be elected or appointed to any town office within one year after such recall or resignation.

## **Article 10**

### **Transitional Provisions**

## **Section 10-1: Continuation of Existing Laws**

All general laws, special laws, town by-laws, Town Meeting votes, and rules and regulations of or pertaining to the town that are in force when this charter takes effect and not specifically repealed herein, shall continue in full force and effect until amended or rescinded or expire by operation of law.

Where specific provisions of this charter conflict with provisions of town by-laws, rules, regulations, orders, special acts and acceptances of general law, the charter provisions shall govern and supersede any law to the contrary.

## **Section 10-2: Continuation of Government**

Except as specifically provided in this charter, all town agencies shall continue in existence, and all town employees and officers shall continue to perform their duties until successors to their respective positions are duly appointed or elected or their duties have been transferred.

## **Section 10-3: Continuation of Personnel**

Any person holding a town office or employment under the town shall retain such office or employment and shall continue to perform his duties until provisions shall have been made in accordance with the charter for the performance of the said duties by another person or agency. No person in the permanent full-time service or employment of the town shall forfeit his pay grade or time in service. Each such person shall be retained in a capacity as similar to his former capacity as is practical.

## **Section 10-4: Transfer of Records and Property**

All records, property and equipment whatsoever of any agency or part thereof, the powers and duties of which are assigned in whole or in part to another agency, shall be transferred forthwith to such assigned agency.

## **Section 10-5: Effective Date**

The charter shall become fully effective upon its approval by the voters, except as otherwise provided:

(a) Upon adoption of the charter, the Board of Selectmen, Registrars of Voters, the Town Clerk and other election officers of the town shall be empowered to hold and shall hold a special election to be held on the fourth Wednesday in June following its adoption by the voters. Two vacancies on the Board of Selectmen shall be filled at said election enlarging the Board of Selectmen to consist of five (5) members.

(b) At the special election, the two additional Selectmen shall be chosen as follows: the candidate

receiving the largest number of votes shall be elected Selectmen for a term ending on the day of the annual town election in 2004; and the candidate receiving the second largest number of votes shall be elected Selectmen for a term ending on the day of the annual town election in 2003. Annually thereafter, there shall be elected a Selectman or Selectmen equivalent to the number of vacant positions to be filled at each annual election.

(c) Persons elected to the Board of Selectmen at the special election shall be sworn into office immediately upon certification of the vote by the Town Clerk.

(d) Upon adoption of the charter and prior to the special election, the Board of Selectmen shall appoint a qualified person to serve as temporary Town Administrator who shall exercise the rights and perform the duties of the Town Administrator. The temporary Town Administrator shall serve in this capacity for a period not to exceed six (6) months or until such time as the Town Administrator is appointed and qualified or for no more than an additional six (6) months. The temporary Town Administrator shall be ineligible for appointment as Town Administrator.

e. Upon adoption of the charter a Town Administrator Search Committee shall be established to assist the Board of Selectmen in the recruitment and selection of the first Town Administrator. The Town Administrator Search Committee shall consist of seven (7) members and shall be established as follows: two (2) members of the 2000 Charter Commission selected by the Charter Commission; two (2) members of the public appointed by the Moderator; one (1) member of the Finance Committee selected by that committee and two (2) members appointed by the Selectmen not to include a Selectman. The search committee shall advertise, solicit and interview candidates for the position of Town Administrator. The search committee shall present not less than four (4) and not more than seven (7) candidates for the position of Town Administrator to the Board of Selectmen. In the event the Board of Selectmen does not select one of the candidates presented to it within thirty (30) days then the search committee shall resume its search and submit an additional list of candidates to the Board of Selectmen within sixty (60) days of its resuming of the search.

(f) Upon adoption of the Charter, and prior to the date the Charter Commission ceases to exist, said Commission shall select two (2) of its members who shall serve on the Town Administrator Search Committee described in Section 10-5(e) above and forward the names of those individuals to the Board of Selectmen.

(g) Until such time as the annual salary for the Town Administrator is otherwise established the initial salary shall be set at not less than \$80,000 per annum.

(h) The Town Treasurer and Town Collector who have heretofore been elected and who will henceforth be appointed under the provisions of this charter shall serve for the balance of their terms or a sooner vacancy of office, but their successors shall be appointed. Upon the expiration of the terms of office of the Treasurer and Town Collector, or anytime thereafter, the Town Administrator may combine these

positions into a single position.

(i) Beginning with the town election in the year following the year in which the charter is adopted, members of the Planning Board shall be elected for three (3) year terms. One member shall be elected in 2002 for a two (2) year term, expiring in 2004. The three members to be elected in 2004 shall be elected for three (3) year terms. One member shall be elected in 2003 for a two (2) year term to expire in 2005. The three members to be elected in 2005 shall be elected for a three (3) year term. One member shall be elected in 2003 for a three (3) year term, expiring in 2006. The three members to be elected in 2006 shall be elected for a three (3) year term.

(j) The provisions of this charter that relate to the establishment of a Department of Finance shall become effective on July 1, 2002.

k. Not more than thirty (30) days after the adoption of this charter the By-law Committee shall begin to review the existing general by-laws of the town and to make a report, with recommendations for possible changes or amendments, to the Town Meeting in the year following the year in which the charter is adopted.

(l) Following the appointment of the first Town Administrator as provided for in Section 10-5 (e) above, said Administrator shall appoint a Board of Assessors. The initial three (3) appointments shall be phased to coincide with the expiration of the terms of office of Selectmen/Assessors elected prior to approval of this Charter. In the event that the Town Administrator has not been appointed by the expiration of the first term of the elected Selectman/Assessor in April 2002, the Board of Selectmen shall appoint the first member of the Board of Assessors.

## **Minority Report**

The undersigned members of the Bourne Charter Commission (the "Commission") respectfully oppose the Charter proposed by a majority of the members of the Commission. We recommend that the voters of Bourne carefully consider what is being proposed by the Charter and to vote "No" on the Charter question on April 4, 2001, local election day.

The purpose of a home rule charter is to design a structure of government that meets the needs and desires of a community. Such structure should be clearly defined, efficient, and responsive to the citizens of the town.

Seventy-eight Massachusetts communities of a total of three hundred fifty-one have adopted charters since 1966. Those adopted charters were recommended by charter commissions which reviewed in depth the current form of government, recommended keeping what they liked and recommended changing what the commission members felt needed improvement.

Unfortunately, the Commission did not review in depth Bourne's current form of government as to its efficiency and responsiveness to voters, including analysis of financial operations, level of services, infrastructure maintenance and taxes versus services. A majority of the members of the Commission would not respond to specific questions as to what is wrong with the current form of government.

From the very first Commission meeting it was clear that a majority of the Commission members were specifically interested in removing the current three full-time Board of Selectmen system and replacing it with a five member part-time board and a Town Administrator.

Meetings were held with town department heads to discuss their functions and their relationships with the Board of Selectmen and other departments. Whenever department heads voiced their support for the current form of government, the majority of the Commission members ignored the department head's support of the current system.

Bourne's current form of government provides open access to the three full-time selectmen who not only set policy, but also manage the Town on a day-to-day basis. The Board meets with financial staff, code enforcement staff, and public safety staff at regular scheduled weekly meetings. In addition, the Board meets with other department heads, boards and commissions on an as-needed basis throughout the week. Selectmen also serve as Assessors and Sewer Commissioners, and as members of the Capital Outlay Committee, By-Law Committee, Designer Selection Committee, Otis Senior Management Board, Buzzards Bay Advisory Committee, Local Emergency Planning Committee, School Building Committee and as Chief Procurement Officers and personnel directors.

The following excerpts from the April 14, 2000 analysis by Moody Investors Service of the Town of Bourne finances and management lend strong independent support to maintaining the current system:

Opinion: Moody's Investors Service has assigned a MIG-1 rating to the Town of Bourne, Massachusetts ) Moody's has also affirmed the A2 rating on the town's \$12.2 million in outstanding long-term debt and issued a positive outlook. The MIG-1 and A2 ratings reflect the town's demonstrated market access, well managed finances and favorable debt position.

#### FINANCIAL OPERATIONS ARE STRONG

Moody's anticipates the town's finances will continue to improve. Following the implementation of new fiscal controls, improved budgeting practices and more aggressive

tax collection techniques, the town's General Fund balance has steadily increased since FY93. At the close of FY98, General Fund balance stood at \$5.3 million, equivalent to 19% of revenues, marking a dramatic turnaround from a deficit position registered in the earlier part of the decade. For FY99, town officials report a Stabilization Fund increase to \$3.4 million, up from \$1.8 million in FY98, and otherwise stable reserve levels.

## FAVORABLE DEBT POSITION WITH SCHOOL DEBT ISSUED IN FY01

Moody's believes the town's debt position will remain favorable, despite plans for additional debt in the near term. The town's moderate debt burden of 2.7% is reduced to 2.4% after adjusting for self-supporting sewer debt and 64% reimbursement for school construction. Payout is rapid with 94.7% of principal retired in 10 years, adding a measure of financial flexibility to layer in future debt. Of the current issue, Lot A provides temporary financing for the landfill, equipment, technology and remodeling the Town Hall, while Lot B provides funding for middle school construction. Town officials expect to permanently finance the approximately \$20 million school project in FY01 to match the first installment of state school construction aid. In addition, Bourne plans to permanently finance approximately \$6 million in BANs for miscellaneous projects in May 2000.

## OUTLOOK

Moody's positive outlook is based on our expectation that Bourne's finances will remain strong and that the town's tax base will continue to grow. The town benefits from its strong tourism-driven economy and high number of residents with second homes in the area, as well as the town's proximity to Boston."

Some of the major shortcomings of the proposed charter are: (1) requiring the Board of Selectmen to appoint and discharge the Town Administrator by a 4/5 majority of the Board of Selectmen; (2) appointing the Administrator indefinitely so that discharge is very difficult; and (3) transferring of powers from a Board of Selectmen who are directly responsible to the voters to a Town Administrator who is not directly accountable to the voters of the Town of Bourne.

There is no requirement in the proposed Charter that the town administrator even reside in Bourne. The person running Bourne on a day-to-day basis is not elected by the voters and does not even have to be a Bourne resident.

The changes proposed by the Charter will not benefit Bourne. The changes will in the long term increase the cost of government, reduce voter participation and access, minimize the role of elected officials, and create a very powerful administrator who will answer only to a super-majority of five part-time selectmen.

We reject the majority's contention that selectmen elected by the voters should only deal with policy

matters and that all administrative functions should be handled by an appointed person not directly accountable to the voters.

We therefore recommend that the voters of Bourne reject the proposed charter.

Respectfully submitted,

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W. Thomas Barlow

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Robert W. Parady

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Charles Perry