

# Board of Selectmen Meeting Notice AGENDA JOINT Finance Committee **AMENDED**



Date

January 11, 2022

Time

7:00 PM

Location

Zoom Remote  
Public Access – See Below

Note this Zoom videoconference meeting is being televised, streamed or recorded by Bourne TV.

If anyone from the public wishes to access the meeting, they can do so by calling the following conference line: **1-929-205-6099 Meeting ID: 898 6668 9915 Password: 574910.**

If you already have the Zoom App downloaded to your device or computer, you may simply join the meeting by entering the Meeting ID and Password noted above, or go to <https://zoom.us/meetings> and look for the Join Meeting button. Please MUTE your phone/microphone upon entry.

Participants wishing to speak should click the “Participants” icon on the lower toolbar and then click “Raise Hand” in the dialog box to notify the Chair. The Chair will recognize participants. For Participants who are calling into the meeting and wishing to speak should press \*9 to notify the Chair. The Chair will recognize participants.

All items within the meeting agenda are subject to deliberation and vote(s) by the Board of Selectmen.

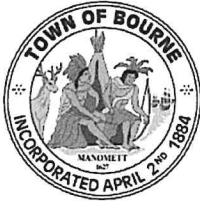
## **7:00 PM Call Public Session to Order in Open Session**

1. Moment of Silence to recognize our Troops and our public safety personnel
2. Salute to the Flag
3. Vision: Bourne is a proud community that embraces change while respecting the rich heritage of the town and its villages. It is a municipality based on strong fiscal government with a durable economy that recognizes the rights of all citizens, respects the environment, especially the coastal areas of the community and the amenities that it affords. Bourne embraces excellent education, and offers to citizens a healthy, active lifestyle.
4. Mission: Bourne will maximize opportunities for social and economic development while retaining an attractive, sustainable and secure coastline and environment for the enjoyment of residents and visitors. Through responsible and professional leadership and in partnership with others, Bourne will strive to improve the quality of life for all residents living and working in the larger community.
5. Public Comment on Non-Agenda Items
  - a. Public comments are allowed for up to a total of 12 minutes at the beginning of each meeting. Each speaker is limited to 3 minutes for comment. Based on past practice, members of the Board are not allowed to comment or respond.

2022 JAN -6 PM 3:47  
TOWN CLERK BOURNE

RECEIVED

6. Minutes: none
7. Selectmen's Business
  - a. **7:05 PM Pole Hearing** – 11 Buttermilk Way to transfer utilities off of an old pole and onto a new pole, which designated route of line the Town of Bourne is an owner.
  - b. Discussion and possible vote to advance the proposed Charter With Recommendations for Changes as approved at the November 15, 2021 Town Meeting to the Great and General Court.
  - c. Discussion and possible vote to advance the proposed land donation condition (a revetment clause) from Next Grid as approved at the November 15, 2021 Town Meeting to the Great and General Court.
  - d. ~~Discussion and possible vote to dissolve the existing South Side Fire Station Feasibility and Design Building Committee.~~
  - e. ~~Discussion and possible vote to approve the South Side Fire Station Building Committee charge and membership.~~
  - f. Discussion and possible vote to allow staff to utilize the Selectmen's stamp on all Certificates of Vote relative to Committee Charges only.
  - g. Discussion relative to the Barnstable County request for comments on potential American Rescue Plan Act (ARPA) Funding.
8. Appointments and Licenses
9. Town Administrator
  - a. Town Administrator's presentation of the Fiscal Year 2023 (July 1, 2022 to June 30, 2023) Operating Budget and Capital Plan.
  - b. As required by Town Charter Section 5.1 (Table of Organization), the Town Administrator submission of the annual organizational chart establishing personnel requirements within all Town departments.
  - c. **Public Workshop (Virtual) – Low Lying Roads Project on February 2, 2022 at 2pm.**
10. Correspondence
11. Committee Reports
12. Adjourn



## **TOWN OF BOURNE**

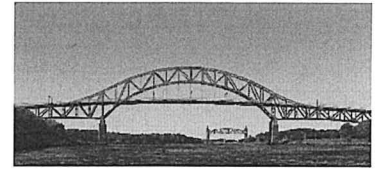
**Board of Assessors**

**24 Perry Avenue**

**Buzzards Bay, MA 02532**

**(508) 759-0600 Ext. 1510 ♦ Fax (508) 759-8026**

Michael Leitzel, Chairperson  
Ellen Doyle Sullivan, Clerk  
Donna Barakauskas, Member



Rui Pereira, MAA  
Director of Assessing

December 23, 2021

Town of Bourne Selectman  
24 Perry Ave  
Buzzards Bay, MA 02532

Reference: Abutters List for Map 23.2 Parcel 2  
Subject Property: 11 Buttermilk Way

Pursuant to Massachusetts General Laws Chapter 166, Sections 21, 22 and 25A, a petition request by Verizon to grant location for telecommunication wires and wireless attachments and appurtenances to an existing utility pole. This is to certify the enclosed is a list of names and addresses constitutes all the abutters on the most recent tax list of the Town of Bourne.

Abutting properties are: Map 23.3 Parcels 2, 6 & 50.

**Please be advised that this abutters list is only good for 30 days from the date of this letter. Expired abutters list can be recertified for an additional filing fee.**

See enclosed Data Base Inquiry Forms for abutters mailing addresses.

Board of Assessors

List Enclosed

*Ellen Doyle Sullivan -  
Donna Barakauskas  
Michael Leitzel*

Extract: 1 Abutters List  
Database: LIVE  
Filter: Key IN 4713,4717,4761  
Sort:

Report #24: Owner Listing Report  
Fiscal Year 2023

Bourne MA

Key	Parcel ID	Owner	Location	LCI/CI	Bk-Pg(Cert) /Dt	Mailing Street	Mailing City	ST	Zip Cd/County
4713	23.3-2-0	MASSACHUSETTS STATE COLLEGE BUILDING AUTHORITY	11 BUTTERMILK WAY	N 9170	25192/153 1/19/2011	253 SUMMER STREET SUITE 300	BOSTON	MA	02210
4717	23.3-6-0	CLARK JEAN F ETAL TRS OF W CLARK TRUST	16 TOWER LN	N 1110	21667/211 1/3/2007	35A N MAIN ST	FALMOUTH	MA	02540
4761	23.3-50-0	COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF EDUCATION	101 ACADEMY DR	N 9170	1424/419	101 ACADEMY DR	BUZZARDS BAY	MA	02532
Total Records		3							





[illegible]

11 Buttermilk Way, Bourne, MA

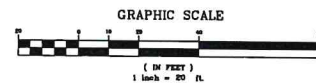
**Massachusetts State College  
Bldg Authority  
10 High Street, Suite 201  
Boston, MA 02110**

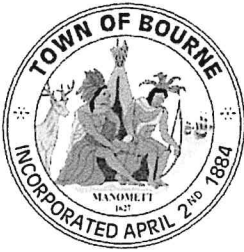
100% CONSTRUCTION DOCUMENTS



## OVERALL UTILITY & GRADING PLAN

C-104





# TOWN OF BOURNE

## Town Administrator

24 Perry Avenue - Room 101  
Buzzards Bay, MA 02532  
[www.townofbourne.com](http://www.townofbourne.com)  
508.759.0600, Ext. 1308



Glenn Cannon, Town Administrator  
Email: [gcannon@townofbourne.com](mailto:gcannon@townofbourne.com)

## NOTICE

To: Clark Trust  
35A North Main Street  
Falmouth, MA 02540

You are hereby notified that a public hearing will be held at 7:05 P.M. on Tuesday, January 11, 2022 for a petition request from Verizon to grant location for telecommunication wires and wireless attachments and appurtenances to an existing utility pole on Buttermilk Way, Bourne.

This petition is necessary for Verizon to transfer utilities off an old pole and onto a new pole at 11 Buttermilk Way in Bourne, which designated route of line you are an owner of real estate, as determined by the preceding assessment for taxation.

The meeting will be Zoom Remote with access for the phone number for calling in on the posted agenda, which can be found on the Town of Board website calendar ([www.townofbourne.com](http://www.townofbourne.com))

Glenn Cannon  
Town Administrator

Dated: December 23, 2021

## Thut, Kathleen

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**From:** Lydon, Timothy  
**Sent:** Tuesday, October 26, 2021 10:07  
**To:** Thut, Kathleen  
**Subject:** FW: [E] RE: LOI 4A0PR9T\_DellbrookJKS.pdf  
**Attachments:** Verizon Plan.pdf

Hey Kathleen,

Does MMA need a pole hearing for Verizon if the pole is not on Town property?

Can you send me the legal requirements or whatever you may have for pole hearings?

Thanks,

Timothy Lydon, SIT, CFM  
Town of Bourne  
Engineering Department  
508-759-0600 x1345  
[tlydon@townofbourne.com](mailto:tlydon@townofbourne.com)

**From:** Stuart Clark [<mailto:s.clark@gseenv.com>]  
**Sent:** Tuesday, October 26, 2021 10:05 AM  
**To:** Lydon, Timothy <[TLydon@townofbourne.com](mailto:TLydon@townofbourne.com)>  
**Cc:** Tom Shevory <[tshevory@dellbrookjks.com](mailto:tshevory@dellbrookjks.com)>  
**Subject:** FW: [E] RE: LOI 4A0PR9T\_DellbrookJKS.pdf

Tim  
Does Verizon need permission to move pole on our property? See below. Tower lane is private in this area. Let me know your thoughts .  
-Stu

**From:** Tom Shevory <[tshevory@dellbrookjks.com](mailto:tshevory@dellbrookjks.com)>  
**Sent:** Tuesday, October 26, 2021 9:33 AM  
**To:** Stuart Clark <[s.clark@gseenv.com](mailto:s.clark@gseenv.com)>  
**Subject:** FW: [E] RE: LOI 4A0PR9T\_DellbrookJKS.pdf

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good Morning Stuart,

I have been in touch with Verizon to try and move along the process of the utility pole relocation. They have informed me that a right of way must be secured, and it is now awaiting a public hearing. Per the email correspondence below, Verizon is seeking town permission.



I am trying to understand if they need town permission to remove the pole where it is currently placed or to move it to it's new/final location (or perhaps both)? If the new location is on MA Maritime Property would it require town permission, or does the town own the 1<sup>st</sup> 10-15' of property in from the road?

I have been trying to get this information from Verizon, but the main contact has been away for a week or so, and I am trying to update the rest of the team.

Please share any thoughts, if easier to discuss on a call, my number is 508-858-7690.

Thanks

Tom

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**Tom Shevory**  
Project Manager



O: 508-540-6226, ext 2609  
M: 508-858-7690

**From:** Doyle, Brian J <[brian.j.doyle@verizon.com](mailto:brian.j.doyle@verizon.com)>  
**Sent:** Wednesday, August 11, 2021 9:01 AM  
**To:** Tom Shevory <[tshevory@dellbrookjks.com](mailto:tshevory@dellbrookjks.com)>  
**Subject:** Re: [E] RE: LOI 4A0PR9T\_DellbrookJKS.pdf

Tom,

I am unable to make the trip from RI and will not be able to attend the field meeting. The Verizon work is pretty straightforward. Upon Town granted permission, Verizon will set the new pole. The utilities will transfer off the old pole from the top down, power municipal, catv then Verizon being the lowest & last to transfer off and will remove the pole. Below is a copy of the work print depicting the required work. If Eversource needs to adjust the new pole location for their needs, please have them stake the final location. I will let you know when the Town grants permission for the new pole location enabling me to release the job to our Construction Dept.

Brian

Thanks

**Tom Shevory**

Project Manager



O: 508-540-6226, ext 2609

M: 508-858-7690

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**From:** Tom Shevory

**Sent:** Friday, July 30, 2021 8:06 AM

**To:** Doyle, Brian J <[brian.j.doyle@verizon.com](mailto:brian.j.doyle@verizon.com)>

**Cc:** [karen.m.mealey@verizon.com](mailto:karen.m.mealey@verizon.com)

**Subject:** RE: LOI 4A0PR9T\_DellbrookJKS.pdf

Good Morning Brian,

I am on vacation next week, but I was hoping to confirm you received this email regarding a meeting onsite with myself and Eversource to confirm that all parties are on the same page regarding the pole relocations for this project.

Thanks

Tom

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**From:** Tom Shevory

**Sent:** Thursday, July 8, 2021 1:35 PM

**To:** Doyle, Brian J <[brian.j.doyle@verizon.com](mailto:brian.j.doyle@verizon.com)>

**Cc:** [karen.m.mealey@verizon.com](mailto:karen.m.mealey@verizon.com)

**Subject:** RE: LOI 4A0PR9T\_DellbrookJKS.pdf

Hi Brian,

I have set up an onsite meeting with the Project Engineers and Eversource to go through this project and ensure everyone is on the same page with which party is moving the poles and sequence for taking lines down, etc. The meeting is on 8/12 at 9AM. Can you please attend or do you have an Engineer or other party that could attend on behalf of Verizon?

**Town of Bourne  
Charter  
With Recommendations for Changes**

**DRAFT Submission for the Legislature**

**Submitted By The  
CHARTER REVIEW COMMITTEE**

**For the Special Town Meeting  
November 15, 2021**

Chapter 117 AN ACT AMENDING THE CHARTER OF THE TOWN OF BOURNE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. The following shall be the charter of the town of Bourne:

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**TOWN OF BOURNE HOME RULE CHARTER**

**ARTICLE 1 EXISTENCE AND AUTHORITY**

- Section 1-1 Incorporation
- Section 1-2 Charter and Form of Government
- Section 1-3 Division of Powers
- Section 1-4 Powers of the Town; Intent of the Voters
- Section 1-5 Interpretation of Powers
- Section 1-6 Intergovernmental Relations

**ARTICLE 2 LEGISLATIVE BRANCH**

- Section 2-1 Open Town Meeting
- Section 2-2 Presiding Officer
- Section 2-3 Time of Meetings
- Section 2-4 Warrants
- Section 2-5 Initiation of Warrant Articles
  - (a) Initiation
  - (b) Time for Closing Town Meeting Warrants
  - (c) Availability of the Voter Handbook
- Section 2-6 Availability of Town Officials at Town Meetings
- Section 2-7 Clerk of the Meeting
- Section 2-8 Rules of Procedure
- Section 2-9 Finance Committee

**ARTICLE 3 EXECUTIVE BRANCH, ~~BOARD OF SELECTMEN~~ SELECT BOARD**

- Section 3-1 Term of Office, Composition
- Section 3-2 Vacancy
- Section 3-3 Policy Role
- Section 3-4 Powers and Duties
- Section 3-5 Appointing Powers
- Section 3-6 Prohibitions
- Section 3-7 Intergovernmental Relations
- Section 3- 8: Rules of Procedure

**ARTICLE 4 TOWN ADMINISTRATOR**

- Section 4-1 Appointment; Qualification; Term
- Section 4-2 Relationship of the Town administrator and the ~~Board of selectmen~~ **select board**
- Section 4-3 Vacancy in Office
- Section 4-4 Temporary Absence
- Section 4-5 Procedures for Removal of Town administrator
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## **ARTICLE 5 ADMINISTRATIVE ORGANIZATION**

Section 5-1 Table of Organization

Section 5-2 Organization of Town Government

Section 5-3 Public Hearing and Effective Date

Section 5-4 Department of Public Works

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(b) ~~Superintendent~~ **Director** of Public Works

(c) Scope and Functions

(d) Policy

Section 5-5 Department of Integrated/Solid Waste Management

(a) Establishment

(b) General Manager

(c) Scope and Functions

(d) Policy

Section 5-6 Department of Finance

(a) Establishment and Scope

(b) Director of Finance

(c) Board of Assessors

(d) Town Accountant

(e) Treasurer

(f) Town Collector

Section 5-7 Police Department

Section 5-8 Fire Department

## **ARTICLE 6 OTHER ELECTED TOWN BOARDS AND OFFICERS GOVERNMENTAL BODIES**

Section 6-1 Other Elected ~~Town Boards and Officers~~

**Governmental Bodies and Officials**

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(b) ~~Town boards~~ **Governmental bodies** to be elected in addition to the ~~Board of selectmen~~ **select board**

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Section 6-4 Constable

Section 6-5 School Committee

Section 6-6 Board of Health

Section 6-7 Planning Board

Section 6-8 Housing Authority

Section 6-9 Recreation Authority

Section 6-10 Trustees of the Jonathan Bourne **Public** Library

Section 6-11 Trustees of the Soldiers Memorials

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

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Section 7-2 Capital Improvement ~~Program~~ **Plan** and Capital **Improvement** Budget

Section 7-3 Long Term Financial Forecast

Section 7-4 Finance Committee Action

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## **ARTICLE 8 GENERAL PROVISIONS**

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Section 8-2 Severability

Section 8-3 Specific Provisions Prevail

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Section 8-5 Elections

Section 8-6 Procedures for ~~Multiple Member Bodies~~ **Governmental Bodies**

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Section 8-7 Computation of Time

~~Section 8-8 Number and Gender~~

Section 8-9 Definitions

Section 8-10 Rules and Regulations

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Section 9-6 Propositions on Ballot

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Section 10-4 Transfer of Records and Property

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## **ARTICLE 11 – CHARTER COMPLIANCE COMMITTEE**

## **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, article LXXXIX of the amendments 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. This charter provides for an open town meeting, ~~board of selectmen~~ **select board**, 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 which shall be headed by a ~~board of selectmen~~ **select board**. 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 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 laws 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 shall not limit in any way the general powers of the town as stated in section 1-4.

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

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

### **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 voters.

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

The town moderator, elected as provided in section 6-2, shall preside at all sessions of the town meeting, shall regulate the proceedings at town meeting, shall decide all questions of order and shall make public declarations of all votes.

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

The annual town meeting shall convene at such time as provided by by-law. Special town meetings shall be convened at such times as may be called by the ~~board of selectmen~~ **select board**, by petition of the voters as provided by law or at such other times as may be provided by by-law.

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

A town meeting shall be called by a warrant issued by the ~~board of selectmen~~ **select board**, which shall state the date, time and location at which the meeting is to convene and, by separate articles, the subject matters to be acted upon. The publication of the warrant for a town meeting shall be in accordance with town by-laws governing such matters.

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

(a) The ~~board of selectmen~~ **select board** shall receive at any time before the warrant closes 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) an elected town officer; (2) a town elected or appointed ~~multiple member body~~ **governmental body** acting by vote of a majority of its members; (3) 10 or more voters stating their residences with street numbers, if any, subject to the subsequent certification by the board of registrars that at least 10 per cent of the signers are voters; provided, however, that in the case of a special town meeting, the number of voters shall be 100 or 10 per cent of the total amount of voters in the town, whichever is lesser; and (4) the town administrator.

(b) The ~~board of selectmen~~ **select board** shall close the warrant not less than 50 days prior to the date for the annual town meeting and not less than ~~25~~ **30** days prior to the date for any special town meeting. By ~~majority vote~~ **4/5<sup>th</sup> vote of members present and voting**, the ~~board of selectmen~~ **select board** may waive the aforementioned requirements for the special town meeting in case of emergency **or when calling a special town meeting less than 30 days before the date of the special town meeting.**

(c) 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~~ **select board** and any other appointed or elected board or committee proposing an article. In the voter handbook for the annual town meeting, the ~~selectmen~~ **select board members** shall include the recommended operating budget with revenue projections, their budget goals. Departmental goals for the upcoming fiscal year an organization ~~table~~ **chart**, and five-year financial, debt and capital projections. The voter handbook shall be available to the public at the town hall, the public library, **and the town's website** not less than 15 days before the annual town meeting **or any special town meeting. By majority vote the select board may waive the requirements for a special town meeting in case of an emergency or when calling a special town meeting less than 30 days before the date of the special town meeting.**

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

Town ~~officers~~ **officials**, members of ~~boards and commissions~~ **governmental bodies** and department heads or their duly designated representatives shall attend town meetings to furnish information when proposals affecting their respective offices, ~~boards, commissions~~ **governmental bodies** or departments are included in the warrant.

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

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

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

A finance committee shall be appointed as provided by by-law. Town 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. **The chairperson of the finance committee may not chair any other governmental body.**

## **Article 3**

### **Executive Branch, ~~Board of Selectmen~~ Select Board.**

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

There shall be a ~~board of selectmen~~ **select board** to consist of ~~five~~ members to be elected for ~~3-~~ **three** year terms, so arranged that as nearly an equal number of terms as possible shall expire each year. The ~~board of selectmen~~ **select board** shall also ~~serve~~ **act** as sewer commissioners until such time as the town adopts legislation creating a board of sewer commissioners.

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

A vacancy in the office of ~~selectmen~~ **the select board** shall be filled in accordance with the General Laws.

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

The ~~board of selectmen~~ **select board** shall serve as the chief goal-setting and policy-making agency of the town, keeping in mind the goals, policies and action items of the **strategic plan and** local comprehensive plan, or LCP, and shall appoint a town administrator to carry out such policies. Annual goals as voted by the ~~board of selectmen~~ **select board** shall be filed with the town administrator not later than ~~July 1~~ **September 1<sup>st</sup>**, after the regular spring town election and also published in the annual town report.

An individual ~~selectman~~ **select board member** shall have no independent authority unless specifically authorized by a vote of the ~~board of selectmen~~ **select board**. ~~Selectmen~~ **Select board members** shall deal with administrative agencies and departments only through the town administrator. ~~Selectmen~~ **Select board members**, individually or as a board, shall not become involved in the day-to-day administration of a town department. The ~~board of selectmen~~ **select board** shall act only through the adoption of written policy goals, **strategic plan goals**, policies and action items which shall be implemented by the town administrator and written in a policy book that shall be available to the public for review.

#### **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~~ **select board** and the board shall have all of the powers and duties given to ~~boards of selectmen~~ **select boards** under the Constitution and General Laws of the commonwealth, **shall have the power and authority to adopt rules and regulations, after public hearing and publication, for the conducting of town business, the use of town real and personal property, and other matters within its jurisdiction and to set the penalties for violations thereof**, 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~~ **select board** shall cause the laws and orders for the government of the town to be enforced and shall cause a record to be kept of all its official acts.

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

The ~~board of selectmen~~ **select board** shall appoint the town administrator, town counsel, registrars of voters, ~~and constables and members of all multi-member bodies~~ **The board shall also have the power to appoint other governmental bodies** for whom no other appointment provision is made in this charter or by by-law. Representatives of ~~boards or committees~~ **governmental bodies** specified as members of a ~~committee~~ **governmental body** shall be designated by their respective ~~boards or committees~~ **governmental body**. **Governmental bodies established by the select board shall possess and exercise all powers given to them under the Constitution and laws of the Commonwealth and shall possess and exercise such additional powers and duties as may be authorized by this charter, by-law or vote of town meeting. This charter names those governmental bodies which (1) are mandated or authorized by the laws of the Commonwealth and (2) exercise regulatory or other authority.** All ~~boards, committees and commissions~~ **governmental bodies** appointed by the ~~board of selectmen~~ **select board** shall be responsible to the ~~board of selectmen~~ **select board**.

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

(a) No member of the ~~board of selectmen~~ **select board** shall serve on an elected or appointed ~~town board or committee~~ **governmental body** established by this charter, by by-law, or by town meeting, unless otherwise specified in the charter, by-law, by town meeting or by any other applicable law.

(b) No member of the ~~board of selectmen~~ **select board** shall hold any other elected town office or town employment during that member's term in office.

(c) No person who has served as a member of the ~~board of selectmen~~ **select board** shall be employed by the town for two years after that member's resignation or after the member's term of office has expired.

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

Members of the ~~board of selectmen~~ **select board** shall represent the town on federal, state, regional and intermunicipal committees or may designate a town employee or other person to represent the town on those committees. **The select board shall maintain an active list of the governmental bodies and representation and make accessible to the public on the town's website.**

### **Section 3-8: Rules of Procedure.**

The ~~board of selectmen~~ **select board** shall adopt, make public and abide by its own rules of procedure to govern the conduct of its meetings. An agenda shall be posted with each notice of public meeting. A period of public comment shall be scheduled before the beginning of agenda items. In addition, a public comment period shall be provided before any vote on a policy issue. The ~~board of selectmen~~ **select board** may deviate from its agenda only for sudden, generally unexpected occurrences or for circumstances demanding immediate action.

## **Article 4**

### **Town Administrator.**

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

The ~~board of selectmen~~ **select board** shall appoint a town administrator search committee of not fewer than ~~5~~ **five** and not more than ~~9~~ **nine** residents of the community to assist the ~~board of selectmen~~ **select board** in the recruitment and selection of the town administrator. If the ~~board of selectmen~~ **select board** does not select one of the candidates presented by the search committee within 60 days, then the search committee shall resume its search and submit an additional list of candidates to the ~~board of selectmen~~ **select board** within 60 days after it resumes the search.



The ~~board of selectmen~~ **select board**, by an affirmative vote of four members, shall appoint the town administrator for a term defined by contract and fix the town administrator's compensation within the amount annually appropriated for that purpose. **The town administrator's contract will not automatically renew each contract period. The select board, by an affirmative vote of four of its members, shall renew the contract.** 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 at least a bachelor's degree, but preferably a master's degree, in public administration, business management or a related field, at least ~~7~~ **seven** years experience in an upper level executive municipal position or any equivalent combination of education and experience. The town administrator need not be a resident of the town. ~~when appointed but shall establish primary residence in the town of Bourne within 1 year after the date of appointment; provided, however, that the board of selectmen may, by simple majority vote of the selectmen in office at the time of appointment, extend the time for establishing residence or otherwise allow the town administrator to reside elsewhere. Once a residency exemption is granted to a specific town administrator, it shall not be rescinded in future contracts with that town administrator.~~

The town 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 the administrator's term unless such action has been approved in writing in advance of such action by the ~~board of selectmen~~ **select board**. The town may from time to time, by by-law, establish such additional qualifications as it deems necessary and appropriate.

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

The town administrator shall be the primary officer responsible for the implementation of the broad policy directives of the ~~board of selectmen~~ **select board** and for the attainment of yearly goals. The daily administration of the affairs of the town shall be the responsibility of the town administrator only. The town administrator may create advisory ad hoc committees to assist in the execution of the town administrator's duties.

The town administrator shall be evaluated by the ~~board of selectmen~~ **select board** annually for the town administrator's ability to effectuate policy, to accomplish goals established by the ~~board of selectmen~~

**select board**, to effectively administer town government and to properly supervise all municipal employees, except school employees.

#### **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~~ **select board**. Pending the appointment of a town administrator, the ~~board of selectmen~~ **select board** shall, within 30 days, appoint ~~some other~~ a qualified person to serve as the acting town administrator.

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

The town administrator shall, by letter filed with the town clerk and ~~board of selectmen~~ **select board**, designate as acting town administrator, a qualified officer or employee of the town, to perform the duties of the town administrator during a temporary absence or disability. If the absence or disability is greater than ten business days, any designation made by the town administrator shall be subject to the approval of the ~~board of selectmen~~ **select board**. If the town administrator fails to make a designation or if the person so designated is unable to serve, the ~~board of selectmen~~ **select board** shall designate ~~some other~~ a qualified employee of the town to perform the duties of the town administrator until the town administrator shall return. **The select board reserves the right to limit the powers and duties of the acting or interim town administrator by a majority vote of the select board.**

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

The ~~board of selectmen~~ **select board**, by an affirmative vote of ~~4~~ **four** of its members, may initiate the removal of the town administrator by adopting a preliminary resolution of removal. The resolution shall set forth in reasonable detail the reasons for such removal. The preliminary resolution may suspend the town administrator for a period not to exceed 30 days. The resolution shall be delivered to the town administrator forthwith upon its adoption. The administrator, within ~~5~~ **five** days of receipt of the resolution of removal, may request a public hearing by the ~~board of selectmen~~ **select board** on the reasons stated in the resolution of removal. The ~~board of selectmen~~ **select board** shall convene the requested hearing not less than ~~7~~ **seven** and not more than 30 days after receipt of the request by the town administrator. The town administrator may be represented by counsel of the town administrator's choosing, may call and question witnesses and may file a statement on the town administrator's own behalf.

If the town administrator does not request a public hearing, then the ~~board of selectmen~~ **select board** may adopt a final resolution of removal not earlier than 10 days after the delivery of the preliminary resolution of removal and not later than 20 days after the delivery of the preliminary resolution. If the town administrator requests a public hearing, the ~~board of selectmen~~ **select board** may adopt a final resolution of removal not earlier than ~~5~~ **five** days and not later than 10 days after the close of the public hearing. A final resolution of removal shall have an affirmative vote of ~~4~~ **four** members of the ~~board of selectmen~~ **select board**. 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~~ **select board** in suspending or removing the town administrator shall be final. The town administrator shall continue to receive the town administrator's 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~~ **select board** for the proper administration of all town affairs placed in the town administrator's 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~~ **select board** **and inclusion of the strategic plan;**

- (b) appoint and, in appropriate circumstances, remove, subject to civil service laws and collective bargaining agreements where applicable, all department heads and employees, including members of the board of assessors and other employees for whom no other appointment provision is made in this charter; provided, however, that appointments made by the town administrator shall be effective immediately; provided, further, that an appointment of a department head or member of the board of assessors shall become effective on the fifteenth day after the day on which notice of the proposed appointment is filed with the ~~board of selectmen~~ **select board** unless a majority of the ~~board of selectmen~~ **select board** votes to reject the appointment within that period;
- (c) prepare and submit an annual operating budget and capital improvement ~~program~~ **plan** and **capital improvement** budget in accordance with sections 7-1 and 7-2 of this charter; and in accordance with the policies and goals established by the ~~board of selectmen~~ **select board**.
- (d) investigate or inquire into the affairs of a town department under the jurisdiction of the town administrator or, when authorized by the ~~board of selectmen~~ **select board**, investigate or inquire into the affairs of any other town department;
- (e) attend all regular and special meetings of the ~~board of selectmen~~ **select board**, unless unavailable for reasonable cause; provided, however, that the town administrator shall have a voice, but no vote, in all proceedings of the ~~board of selectmen~~ **select board**;
- (f) keep the ~~board of selectmen~~ **select board** fully informed of all issues and problems it needs to address.
- (g) inform the ~~board of selectmen~~ **select board** on departmental operations, fiscal matters and administrative actions and provide regular periodic reports to the ~~board of selectmen~~ **select board**;
- (h) inform the ~~board of selectmen~~ **select board** of the availability of public and private funding opportunities;
- (i) administer ~~personnel~~ **human resource** policies, practices, rules and regulations, compensation plans and related matters for all municipal employees, except school employees;
- (j) 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~~ **select board**;
- (k) have jurisdiction over all town property, ~~insuring~~ **ensuring** that a full inventory of all real and personal property is kept, excluding property under the jurisdiction of the school committee;
- (l) 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; provided, however, that the town administrator shall secure the approval of the ~~board of selectmen~~ **select board** for contracts of ~~3~~ **three** or more years;

(m) fix the compensation of all town employees and officers appointed by the town administrator within the limits of the town's compensation plan, collective bargaining agreements and other employment agreements; and inform the ~~board of selectmen~~ **select board** of all changes in compensation made within 30 days;

(n) ~~coordinate~~ **oversee** the activities of all appointed and elected ~~boards, committees and commissions~~ **governmental bodies**; provided, however, that the town administrator may require elected ~~boards~~ **governmental bodies** and individuals to meet with and provide information to the town administrator at reasonable times ~~for the purpose of coordination and financial planning~~;

(o) create new full-time, compensated positions, subject to the approval of the **select board** and funding by the town meeting; provided, however, that the town administrator may enter into employment contracts for these positions;

(p) 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~~ **select board**;

(q) 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, however, that all such acts shall be deemed to be the acts of the town administrator;

(r) administer and enforce either directly or through a person supervised by the town administrator, in accordance with this charter, all provisions of law applicable to the town, all by-laws and all regulations established by the ~~board of selectmen~~ **select board**; and

(s) attend all sessions of the town meeting to answer questions addressed to the town administrator 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~~ Organizational Chart.**

The town administrator shall annually submit a ~~table of organization~~ **organizational chart** establishing personnel requirements within all town departments to the ~~board of selectmen~~ **select board** by June 1. The ~~table of organization~~ **select board** shall become effective unless rejected by the ~~board of selectmen~~ **select board** within 30 days following its submission.

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

Subject only to the express prohibitions in the Constitution, General Laws or this charter, the town administrator may prepare a plan to organize, reorganize, consolidate or abolish any town agency as the town administrator considers necessary or advisable. The town administrator 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 ~~1~~ **one** town agency to another; provided, however, that no function assigned by this charter to a particular town agency may be discontinued or assigned to any other town agency unless specifically authorized in this charter **or transferred to another agency in accordance with the provisions of 5-3**. The town administrator shall not be prohibited by this charter from including the department of public works or the department of integrated solid waste management in any plan to organize, reorganize, consolidate or abolish a town agency that the town administrator considers necessary or advisable in accordance with this section. Any proposed plan submitted under this section by the town administrator shall be approved by an affirmative vote of ~~3~~ **three** members of the ~~board of selectmen~~ **select board**.

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

Before the ~~board of selectmen~~ **select board** approves a proposed plan under section 5-2, it shall hold ~~1~~ **one** or more public hearings on the proposal, giving notice by publication in a local newspaper at least ~~7~~ **seven** days in advance of the hearing. The notice shall describe the scope of the proposal and the date and place where the hearing will be held. The ~~selectmen~~ **select board members** shall have 14 days after the close of the public hearing to propose amendments, if any, and vote on the final plan. ~~The proposed organization shall become effective not sooner than 60 days following the selectmen's vote on the final plan.~~ Where the reorganization moves a function or funding from ~~1~~ **one** department to another, voters may petition for a special town meeting to address those changes. **The proposed organization shall become effective not sooner than 60 days following the select board members' vote on the final plan.**

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

(a) There shall be a department of public works which shall be 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 or town meeting.

(b) The department of public works shall be under the direct control of a ~~superintendent~~ **director** of public works who shall be appointed by and who shall be directly responsible to the town administrator. The ~~superintendent~~ **director** of public works shall be a registered civil engineer or a person otherwise especially suited by education, training and previous experience to perform the duties of the office. The ~~superintendent~~ **director** of public works shall keep full and complete records of the doings of the ~~superintendent's~~ **director's** office and shall render a report of all operations to the town administrator and ~~board of selectmen~~ as may be required. The ~~superintendent~~ **director** shall keep the town administrator fully advised as to the needs of the town within the scope of the ~~superintendent's~~ **director's** duties.

(c) 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; and the maintenance and repair of town buildings, except school buildings unless requested by the school committee and approved by the ~~board of selectmen~~ **select board**.

~~(d) 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) 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 or town meeting;

(b) The department of integrated solid waste management shall be under the direct control of a general manager of waste management who shall be appointed by and directly responsible to the town administrator.

(c) The general manager shall be especially 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 the office and report on all operations under its control to the town administrator ~~and board of selectmen~~ as may be required. The general manager shall keep the town administrator fully advised as to the needs of the town within the scope of its duties.

(d) The department of integrated solid waste management shall include the solid waste functions approved under the site assignment administered by the board of health and in accordance with the policies established by the ~~board of selectmen~~ **select board**. The department's functions shall also include the implementation of additional solid waste functions as approved by the **select board** and consistent with the site assignment.

~~(e) 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) 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 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 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 **financial** data processing functions, **and** activities and equipment of town offices and agencies; and
- (11) such additional functions as may from time to time be assigned by the town administrator.

(b) The director of finance shall be appointed as provided in subsection (b) of section 4-6. The director of finance shall be especially fitted by education, training and experience to perform the duties of the office. The director of finance may serve as town accountant, town treasurer, town collector or principal assessor, but the finance director shall not serve as town accountant and town 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 ~~1~~ **one** 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, may 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) coordinating the financial functions of all departments and agencies and supervising the following functions: accounting; treasury; tax collections; assessing ~~related data processing~~; and budgeting and procurement and ensuring that each function is operating efficiently and in accordance with applicable laws, by-laws, codes and accepted practices;
- (2) planning, organizing and providing administrative direction for all financial functions;
- (3) working with the town administrator to develop strategic financial plans and policies;
- (4) compiling and submitting an annual operating budget and an annual capital improvement plan to the town administrator; provided, however, that the director shall receive all requests made for the expenditure of town funds from each 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; and provided, further, that 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) There shall be a board of assessors, consisting of ~~3~~ **three** members to be appointed by the town administrator for overlapping ~~3-three~~ year terms. The board of assessors shall have all of the duties and responsibilities assigned to boards of assessors by the General Laws.

(d) There shall be a town accountant appointed as provided for in subsection (b) of section 4-6. The town accountant shall be qualified in accordance with the General Laws and shall have a bachelor's degree in accounting and at least ~~3~~ **three** years of prior full-time accounting experience. The town accountant shall have all of the powers and duties conferred upon town accountants by the General Laws. The town accountant shall be responsible to the finance director and, in turn, to the town administrator for the proper performance of the town accountant's duties.

(e) There shall be a town treasurer appointed as provided for in subsection (b) of section 4-6. The treasurer shall be especially fitted by education, training and experience to perform the duties of the office. The treasurer shall have all of the powers and duties conferred and imposed upon town treasurers by the General Laws, this charter and town by-laws. The town treasurer shall be responsible to the finance director and, in turn, to the town administrator for the proper performance of the town treasurer's duties.

(f) There shall be a town collector appointed as provided for in subsection (b) of section 4-6. The town collector shall be especially fitted by education, training and experience to perform the duties of the office. The town collector shall have all of the powers and duties conferred upon town collectors and tax collectors by the General Laws, this charter and town by-laws. The town collector shall be responsible to the finance director and, in turn, to the town administrator for the proper performance of the town collector's duties.

#### **Section 5-7: Police Department.**

There shall be a police department which shall be under the control and supervision of a chief of police. The chief of police shall be appointed pursuant to clause (b) of section 4-6. The town administrator shall be the appointing authority for all police officers under control of the chief of police. The chief of police may from time to time make suitable regulations governing the police department, and the officers thereof, subject to approval of the town administrator; provided, however, that such regulations shall become effective without that approval if the town administrator fails to take action thereon within thirty days after the regulations have been submitted to the town administrator by the chief of police. The chief of police shall be in immediate control of all town property used by the police department and shall be in charge of the police officers. The chief of police shall assign to the police officers their respective duties and the police officers shall obey all orders of the chief of police.

#### **Section 5-8: Fire Department.**

There shall be a fire department which shall be under the control and supervision of a chief of the fire department. The chief of the fire department shall be appointed pursuant to clause (b) of section 4-6. The chief of the fire department shall have charge of extinguishing fires in the town and the protection of life and property in case of fire. The chief of the fire department shall purchase and keep in repair all property and apparatus used for and by the fire department, with the approval of the town administrator. The chief of the fire department shall have and exercise all the powers and discharge all the duties conferred or imposed by law upon fire chiefs in towns except as herein provided. The chief of the fire department shall appoint such deputy chiefs and such officers and firefighters as the chief deems necessary and may remove the same at any time for cause and after a hearing. The chief of the fire department shall have full and absolute authority in the administration of the fire department, shall make all rules and regulations for its operation, shall report to the town administrator from time to time as the administrator may require and shall annually report to the town the condition of the department, including any recommendations thereon. In the expenditure of money, the chief of the fire department shall be subject to such further limitations as the town may from time to time prescribe.

### **Article 6**

#### **Other Elected ~~Town Boards and Officers~~ Governmental Bodies and Officials.**

##### **Section 6-1: Other Elected ~~Town Boards and Officers~~ Governmental Bodies and Officials.**

(a) Following the adoption of this charter, the only ~~officers~~ **officials** to be elected shall be the town moderator, town clerk and a constable.

(b) ~~Town boards~~ **Governmental bodies** to be elected in addition to the ~~board of selectmen~~ **select board** shall be:

- (1) school committee;
- (2) board of health;
- (3) planning board;
- (4) housing authority;

- (5) recreation authority;
- (6) trustees of Jonathan Bourne **Public** Library;
- (7) trustees of soldier's memorials;
- (8) upper cape cod regional vocational technical school committee; and
- (9) such town members of regional districts, ~~multi-member bodies~~ **governmental bodies** and authorities as are now or may be established as elective offices by the General Laws, a vote of town meeting or an intergovernmental agreement.

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

There shall be a town moderator who shall be elected at the annual town election for a ~~1~~ **one** year term.

The town moderator, as provided in section 2-2, shall be the presiding ~~officer~~**official** at town meetings. The town moderator shall have all of the powers and duties given to town moderators under the Constitution and the General Laws and such additional powers and duties as may be authorized by this charter, by by-law or by other town meeting vote.

The town moderator shall perform such other duties as may from time to time be assigned to the office of town moderator by by-law or by other town meeting vote.

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

There shall be a town clerk who shall be elected at the annual town election for a ~~3~~**three** 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 town clerk shall have all of the powers and duties of town clerks as provided by the General Laws, by this charter, by by-law or by other town meeting vote.

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

There shall be a constable elected for a ~~3~~**three** year term.

The constable shall have all of the powers and duties given to constables under the Constitution and the General Laws and such additional powers and duties as may be authorized by this charter, by by-law or by other town meeting vote.

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

There shall be a school committee to consist of ~~7~~ **seven** members who shall be elected for ~~3~~**three** year overlapping terms.

The school committee shall have general charge of all public schools in the town and shall have all of the powers and duties provided to school committees under the Constitution and the General Laws 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 to consist of ~~5~~ **five** members who shall serve for ~~3~~**-three** 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 of the powers and duties given to boards of health under the Constitution and the General Laws and such additional powers and duties as may be authorized by this charter, by by-law or by other town meeting vote.

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

There shall be a planning board to consist of ~~9~~ **nine** members who shall be elected for ~~3~~**three**-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-laws. The planning board shall have all of the powers and duties given to planning boards under the Constitution and the General Laws and such additional powers and duties as may be authorized by this charter, by by-law or by other town meeting vote.

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

There shall be a housing authority to consist of ~~5~~ **five** members, ~~4~~ **four** of whom shall be elected and ~~1~~ **one** of whom shall be appointed by the secretary of housing and community development or as otherwise provided by law. Housing authority members shall serve for ~~5~~**-five** 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 the General Laws and such additional powers and duties as may be authorized by this 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 Bourne Recreation Authority to consist of ~~5~~ **five** members. One member shall be appointed by the governor and ~~4~~ **four** members shall be elected for ~~3~~**-three** year terms. The Bourne Recreation Authority shall have all of the powers and duties specified in said chapter 820.

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

There shall be a library board to be known as the trustees of the Jonathan Bourne **public** library to consist of ~~6~~ **six** members who shall be elected for ~~3~~**-three** year overlapping terms.

- a) The trustees shall have the custody and management of the library and all property of the town related thereto.
- b) **The selection of the library director consistent with the General Laws; and this charter.**
- c) **Provide an annual review of performance of the library director and submit to the town administrator.**
- d) **Review and advise the library director regarding preliminary budget prior to being submitted to the town administrator's budget report to the select board.**
- e) 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 gift or bequest.

- f) **The trustees will establish and act upon their policies and by-laws consistent with the General Laws, town by-laws and this charter.**
- g) The trustees of the Jonathan Bourne **public** library shall have all of the powers and duties given to boards of library trustees under the Constitution and General Laws and such additional powers and duties as may be authorized by this charter, by by-law or by other town meeting vote.

#### **Section 6-11: Trustees of the Soldiers' Memorials.**

In accordance with section 105 of chapter 41 of the General Laws, there shall be a trustees of soldiers' memorials to consist of ~~6~~ **six** trustees, ~~5~~ **five** of whom shall be elected for ~~3~~**-three** year terms so arranged that as nearly an equal number of terms as possible shall expire each year and ~~1~~ **one** of whom shall be the chairman of the ~~board of selectmen~~**select board**.

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

There shall be ~~2~~ **two** Bourne residents elected to the upper Cape Cod regional vocational technical school committee. Members shall serve for terms of ~~4~~ **four** years so arranged that the terms of the members 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~~ **select board** a proposed operating budget and a capital ~~program~~ **improvement plan** and capital **improvement** budget for all town departments, including the school department, for the ensuing fiscal year. **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.** 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~~ **expected outcomes, delivery of services, and initiatives**. 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 as the ~~board of selectmen~~ **select board** requires. The proposed budget shall include a listing of the funds requested by town departments and agencies. The ~~board of selectmen~~ **select board** shall review the proposed budget and capital ~~program~~ **improvement plan** and make such changes as the board deems appropriate prior to transmitting the budget and capital **improvement** 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~~ Plan and Capital Improvement Budget.**

The town administrator, in conjunction with any committee established for such purpose, shall annually submit a capital improvement ~~program~~ **plan** to the ~~board of selectmen~~ **select board** **ten days** 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 ~~5~~ **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 and include the estimated annual cost of operating and maintaining the facilities included.**

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

The town administrator shall prepare annually, **in a format the town administrator deems desirable or as the select board requires,** a ~~5-five~~ year financial forecast of town revenue, expenditures and general financial condition of the town which shall be submitted to the ~~Board of Selectmen~~ **select board** as part of the annual budget message. The forecast shall include, but not be limited to, the 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~~ **select board** and the ~~board of selectmen~~ **select board** shall make it available to the public for inspection.

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

The ~~board of selectmen~~ **select board** shall submit the operating budget and the capital improvement ~~program plan~~ **program plan** and capital **improvement** budget to the finance committee by a date fixed by by-law. The finance committee, upon receipt of the operating and capital improvement ~~program plan~~ **program plan** and capital **improvement** budget from the ~~board of selectmen~~ **select board**, shall consider in public meetings the detailed expenditures for each town department and agency and shall conduct ~~±~~ **one** or more public hearings on the proposed operating and capital **improvement** 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 any sections thereof and its vote, by roll call, on all warrant articles.

The finance committee shall make copies of its report available to the voters in the town hall and the public library at least ~~21-20~~ days before 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 shall provide staff support to the finance committee in issuing its recommendations on the operating budget and capital improvement ~~program budget~~ **program budget**. The budget to be acted upon by the town meeting shall be the budget approved by the ~~board of selectmen~~ **select board**.

#### **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) This charter may be replaced, revised or amended in accordance with the procedures made available by article LXXXIX of the amendments to the Constitution of the Commonwealth and any legislation enacted to implement said article LXXXIX.

(b) At least once every ~~5~~ **five** years a special committee shall be appointed by the ~~board of selectmen~~ **select board** to review the charter and 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. **The select board may extend time to the charter review committee by majority vote to meet the duties and responsibilities of article LXXXIX enacted to implement said article LXXXIX.**

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

The provisions of this charter shall be severable. If any provision of the charter is held to be 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 to be 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.

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

The election of town ~~officers~~ **officials** and referendum 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 this charter shall be conducted in accordance with the election laws of the commonwealth.

#### **Section 8-6: Procedures for ~~Multiple Member Bodies~~ Governmental Bodies.**

(a) All ~~multiple member bodies~~ **governmental 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 a ~~multiple member body~~ **governmental body** shall be held at 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 laws. The meetings of a multiple member body shall be open to the public and the press, except as may otherwise be authorized by law.

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

(c) Each ~~multiple member body~~ **governmental body** shall provide for the keeping of the minutes of its proceedings. **The Open Meeting Law requires public bodies to create and approve minutes in a timely manner. A "timely manner" is considered to be within the next three public body meetings or 30 days from the date of the meeting, whichever is later, unless the public body can show good cause for further delay.** The minutes shall be a public record and a copy of the minutes shall be filed with the office of the town clerk, **once approved by the governmental body as outlined above.**



(d) Meetings of the ~~board of selectmen~~ **select board**, the school committee, the board of health and the planning board shall, if possible, be televised, **recorded, livestreamed or broadcasted** on the local cable channel or ~~streamed~~ **recorded and posted** on the town's website. The town shall choose the most effective method but technical difficulties with equipment shall not cause a meeting to be postponed.

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

In computing times under this charter, ~~if 7 days or less, only business days shall be counted. If computing more than 7 days, every day shall be counted~~ **"days" will be defined as calendar days unless otherwise specified.**

#### **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 words importing the masculine gender shall include the feminine gender.~~

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

For the purposes of this charter, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Charter", this charter and any amendments to it made through any of the methods provided under Article LXXXIX of the amendments to the Constitution of the Commonwealth.

"Goal", the desired outcome of a policy, program or other action.

**"Governmental Body", means any federal, state, local, municipal or other government; any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and any court or governmental tribunal.**

**"Gender Neutrality", any reference to gender in this charter shall be construed as meaning any person, people, individual or individuals.**

"Library", the Jonathan Bourne **public** library and any branch thereof that may be established.

**" Local Comprehensive Plan", is an important planning tool used to guide the growth and direction of the town while balancing a wide variety of needs, including economic growth, protection of environmental resources, quality of life and community character.**

"Local newspaper", a newspaper of general circulation within the town.

"Majority vote", as to a town meeting, a majority of those present and voting; as to a multiple member body, the affirmative vote of a majority of all members present and voting shall be necessary to adopt any motion, order, appointment or approval or disapproval or to take any action not entirely procedural in nature, unless otherwise provided by law.

~~"Multiple member body", a board, commission or committee consisting of 2 or more persons, whether elected or appointed.~~

“Policy”, a statement of a preferred practice

**“Strategic Plan”, the long-term vision, goals and objectives for the town of Bourne codified in a document accepted by the select board.**

“Town”, the town of Bourne.

“Town agency”, a board, commission, committee, department or office of town government, whether elected, appointed or otherwise constituted.

“Town meeting”, the town meeting of the town of Bourne established in article 2.

“Town ~~officer~~ **official**”, an elected or appointed official of the town who, in the performance of that person’s official duties, exercises some portion of the sovereign power of the town, whether great or small; provided, however, that a person may be a town official whether or not that person receives compensation for his services.

“Voter handbook”, the voter handbook established in subsection (c) of section 2-5 and referenced in section 7-4.

“Voters”, the registered voters of the town.

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

A copy of any rules and regulations adopted by a 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 250 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 for recall. Within 10 working days thereafter, the town clerk shall deliver to any ~~1~~ **one** or more of the voters making such affidavit a sufficient number of copies of petition blanks demanding such recall. The blanks shall be issued by the town clerk, with the town clerk’s signature and official seal attached thereto. The blanks shall be dated and addressed to the ~~board of selectmen~~ **select board** shall contain the name of the elected official sought to be recalled, the office from which recall is sought and the grounds for recall as stated in the affidavit and shall demand the election of a successor to the office. A copy of the petition shall be entered in a record book to be kept in the office of the town clerk. The recall petition shall be returned and filed with the town clerk within 45 days after its issuance. The petition, before being returned and filed with the town clerk, shall be signed by not less than 10 per cent of the qualified voters as of the most recent annual town election and to every signature shall be added the place of residence of the signer, including the street and number, if any. The town clerk shall, within ~~5~~ **five** working days following the date of such filing, submit the petition to the registrars of voters and the

registrars shall forthwith verify 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 town clerk shall submit it with the town clerk's certification to the ~~board of selectmen~~ **select board** without delay. ~~The board of selectmen~~ **select board** shall forthwith give written notice of receipt of the certificate to the official sought to be recalled. If the official does not resign within ~~5~~ **five** calendar days after receipt of the written notice, the ~~board of selectmen~~ **select board** shall order a recall election to be held on a date fixed by the board which shall be not less than 60 and not more than 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 120 days after the date of the certificate, the ~~board of selectmen~~ **select board** may, at its discretion, postpone the holding of the recall election to the date of the other town election. If a vacancy occurs in the office after a recall election has been ordered by the ~~board of selectmen~~ **select board**, the election shall proceed as provided in this section.

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

Any ~~officer~~ **official** whose recall is sought may be a candidate ~~to succeed himself~~ **for re-election to the same office**, and, unless ~~he~~ **the individual** requests otherwise in writing, the town clerk shall place that ~~officer's~~ **official's** 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 the office until the recall election. If the official is not recalled, the official shall continue in office for the remainder of the unexpired term, subject to recall as before, except as provided in section 9-7. If the official is recalled, the official shall be deemed removed upon the qualification of the successor, who shall serve for the balance of the unexpired term of the official recalled. If the successor fails to qualify within ~~5~~ **five** working days after receiving notification of 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~~ **official**)

Against the recall of (name of ~~officer~~ **official**)

Adjacent to each proposition there shall be a place to vote for either of the propositions. After the propositions shall appear the word "Candidates", the directions to voters required by section 42 of chapter 54 of the General Laws 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, that person's name shall be the first listed and all others shall be listed alphabetically. If the majority of the votes cast upon the question of 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 ~~6~~ **six** months after that official takes office and no recall petition shall be accepted against an elected official who was subjected to a recall petition and not removed thereby until at least ~~6~~ **six** months after that recall election.

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

No person who has been recalled from office or who has resigned from office while recall proceedings were pending against that person shall be elected or appointed to a town office within ~~1~~ **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 until they expire by operation of law. Notwithstanding any general or special law to the contrary, if specific provisions of this charter conflict with any town by-laws, rules, regulations, orders, special acts and acceptances of General Laws, the charter provisions shall control.

**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~~ **officials** 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 shall retain such office or employment and shall continue to perform the duties of that office or employment until provisions shall have been made in accordance with this charter for the performance of those duties by another person or agency. No person in the permanent full-time service or employment of the town shall forfeit ~~his~~ **their** pay grade or time in service. Each such person shall be retained in a capacity as similar to ~~his~~ **their** 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.~~**

**Article 11**  
**Charter Compliance Committee.**

There shall be a charter compliance committee to consist of ~~7~~ **seven** members who shall be appointed by the town moderator for ~~3-three~~ year overlapping terms, so arranged that the term of not more than ~~3 three~~ members shall expire each year. No appointee shall be a town employee or a member of an existing ~~board or committee~~ **governmental body** governed by the charter.

The committee shall take action only after receiving a written complaint, filed by ~~1~~ **one** or more voters of the town, alleging a violation of this charter by reason of an act or a failure to act by the town administrator, the ~~board of selectmen~~ **select board**, the school committee, the finance committee or a member of such ~~board or committee~~ **governmental body**.

The complaint shall state the specific section of this charter that is the subject of the violation, the individual, or ~~committee~~ **governmental body** responsible for the violation and the act or failure to act resulting in the violation. The complaint shall be filed with the town clerk who shall immediately send, via certified mail, return receipt requested, a copy to each member of the committee.

Within ~~3 three~~ weeks after receipt of the complaint by the town clerk, the committee shall vote whether to dismiss the complaint without further action. If the committee so votes, the chairman shall give written notification to the town clerk. If the committee votes to not dismiss the complaint, the chairman shall set a time and date for a hearing and mail notice of the hearing to the town clerk, the complainants and the individual, ~~board or committee~~ **or governmental body** named in the complaint. The town clerk shall post and publish the notice in a newspaper of general circulation for at least ~~7~~ **seven** days before the hearing date. The hearing shall occur within 60 days after the date on which the complaint was received by the town clerk. At the hearing, the committee shall allow any person to address the committee on the merits of the complaint.

Within ~~3 three~~ weeks after the hearing, the committee shall vote on whether there has been a violation of this charter as alleged in the complaint and shall mail a notice of its decision to the complainant, to the individual, ~~board or committee~~ **or governmental body** named in the complaint and to the town clerk. The town clerk shall post a copy of the decision at the town hall and on the town's website.

If the committee determines that there has been a violation of this charter as alleged by the complaint, and if, following its vote, there continues to be a violation, the committee may contact town counsel who may file a complaint on behalf of the town with the superior court. Nothing in this article shall limit the right to seek enforcement of this charter as otherwise provided by law.

SECTION 2. This act shall take effect upon its passage.

Charter Review Committee Amendments Approved, October 20, 2021.

## APPENDIX

- Article 1: Section 3 Division of Powers **Amended by Article 21, 2011 ATM**
- Article 2: Section 2-5 Initiation of Warrant Articles-subsection (a-3) **Amended by Article 22, 2011 ATM**  
Section 2-5 Initiation of Warrant Articles-subsections (b) and (c) **Amended by Article 21, 2011 ATM**  
Section 2-5 Initiation of Warrant Articles-subsections (b) and (c) **Amended by Article 29, 2016 ATM**
- Article 3: Section 3-1 Term of Office, Composition **Amended by Article 22, 2011 ATM**  
Section 3-3 Policy Role **Amended by Ch. 85, Acts 2007**  
Section 3-3 Policy Role **Amended by Article 22 2011 ATM**  
Section 3-3 Policy Role **Amended by Article 29 2016 ATM**  
Section 3-5 Appointing Powers **Amended by Article 29 2016 ATM**  
Section 3-6 Prohibitions **Amended by Ch. 85, Acts 2007**  
Section 3-6 Prohibitions **Amended by Article 22, 2011 ATM**  
Section 3-6 Prohibitions-subsections (a) (b) and (c) **Amended by Article 29, 2016 ATM**  
Section 3-8 Rules of Procedure **Amended by Ch. 85, Acts 2007**  
Section 3-8 Rules of Procedure **Amended by Article 22, 2011 ATM**
- Article 4: Section 4-1 Appointment, Qualification, Term **Amended by Ch. 85, Acts 2007**  
Section 4-1 Appointment; Qualification; Term **Amended by Article 21, 2011 ATM**  
Section 4-1 Appointment; Qualification; Term **Amended by Article 22, 2011 ATM**  
Section 4-1 Appointment; Qualification; Term **Amended by Article 29, 2016 ATM**  
Section 4-2 Relationship of the Town Administrator and the Board of Selectmen **Amended by Ch. 85, Acts 2007**  
Section 4-4 Temporary Absence **Amended by Ch. 85, Acts 2007**  
Section 4-4 Temporary Absence **Amended by Article 21, 2011 ATM**  
Section 4-4 Temporary Absence **Amended by Article 29, 2016 ATM**  
Section 4-6 (b) Powers and Duties **Amended by Ch. 85, Acts 2007**  
Section 4-6 Powers and Duties-subsections (b) **Amended by Article 21, 2011 ATM**  
Section 4-6 (c) Stricken **Amended by Ch. 85, Acts 2007**  
Section 4-6 Powers and Duties **Amended by Article 22, 2011 ATM**  
Section 4-6 Powers and Duties-subsections (c) (f) and (m) **Amended by Article 29, 2016 ATM**
- Article 5: Section 5-1 Table of Organization **Amended by Article 29, 2016 ATM**  
Section 5-2 Organization of Town Government **Amended by Ch. 85, Acts 2007**  
Section 5-2 Organization of Town Government **Amended by Article 21, 2011 ATM**  
Section 5-3 Public Hearing and Effective Date **Amended by Article 21, 2011 ATM**  
Section 5-4 Department of Public Works-subsection (b) **Amended by Article 21, 2011 ATM**  
Section 5-5 Department of Integrated Solid Waste Management-subsection (c) **Amended by Article 21, 2011 ATM**  
Section 5-6 Department of Finance (a) 11 **Amended by Ch. 85, Acts 2007**  
Section 5-6 Department of Finance (b) 3 **Amended by Ch. 85, Acts 2007**  
Section 5-6 Department of Finance-subsections (b) through (f) **Amended by Article 21, 2011 ATM**

Section 5-7 Police Department **New Section Added by Article 29, 2016**  
Section 5-7 Fire Department **New Section Added by Article 29, 2016**

Article 6: Section 6-4 Constable **Amended by Article 21, 2011 ATM**  
Section 6-8 Housing Authority **Amended by Article 29, 2016 ATM**

Article 7: Section 7-2 Capital Improvement Program and Capital Budget **Amended by Article 21, 2011 ATM**  
Section 7-3 Long Term Financial Forecast **Amended by Article 29, 2016**

Article 8: Section 8-1 Charter Changes-subsection (b) **Amended by Article 21, 2011 ATM**  
Section 8-6 Procedures for Multiple Member Bodies **Amended by Article 22, 2011 ATM**  
Section 8-6 Procedures for Multiple Member Bodies **Amended by Article 29, 2016 ATM**  
Section 8-7 Computation of Time **Amended by Article 21, 2011 ATM**  
Section 8-9 Definitions-subsection (g) **Amended by Article 21, 2011 ATM**  
Section 8-9 Definitions **Amended by Article 29, 2016 ATM**

Article 9: Section 9-2 Recall Petition **Amended by Ch. 85, Acts 2007**  
Section 9-2 Recall Petition **Amended by Article 21, 2011 ATM**  
Section 9-3 Recall Election **Amended by Article 21, 2011 ATM**  
Section 9-5 Incumbent Status **Amended by Article 21, 2011 ATM**  
Section 9-8 Limit on Recalled Official **Amended by Article 21, 2011 ATM**

Article 10: Section 10-5 Effective Date **Amended by Article 21, 2011 ATM-**

Article 11: Charter Compliance Committee - New Article **Added by Ch. 85, Acts 2007**  
Article 11: Charter Compliance Committee **Amended by Article 21, 2011 ATM**  
Article 11: Charter Compliance Committee **Amended by Article 16, 2014 ATM**

**Memorandum of Agreement Between Town of Bourne and NextGrid, Inc.**

This Memorandum of Agreement is by and between the Town of Bourne, 24 Perry Avenue, Bourne, MA 02532 by and through its Board of Selectmen ("Town") and NextGrid, Inc., a Delaware Corporation, registered in Massachusetts and having its principal place of business at 3584 Holland Drive, Santa Rose, CA 95404 ("Developer").

NOW THEREFORE for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and for the mutual promises set forth below, the Parties agree as follows:

1. The Developer shall gift to the Town the Premises shown in **Exhibit A** by a quitclaim deed, free of encumbrances and in good clear and marketable title for the exclusive purpose of developing and constructing a solar renewable energy project for the first twenty five years and thereafter for general municipal purposes. Said deed shall be subject to a right of reversion, to be exercisable by the Developer within sixty (60) days after the expiration of twenty five years or the expiration of the useful life of the solar facility constructed thereupon, whichever is longer but in no event later than thirty (30) years ("Reversionary Period"). In order to exercise the reversion, the Developer shall pay to the Town TWO MILLION SEVEN HUNDRED EIGHTY THOUSAND AND NO/100'S DOLLARS (\$2,780,000.00) commensurate with the exercising of the right of reversion, if so exercised. If the reversion is not exercised by the end of the Reversionary Period, then the right of reversion will terminate. Said gift to be made within 20 business days of the last to occur of; (a) authorization the Town of Bourne Town Meeting to be held no later than November 30, 2021 to allow the Board of Selectmen to accept the gift, and (b) Developer has fully entitled the Project including receipt of governmental and utility approvals, and eligible solar incentives, and (c) approval by the Great and General Court of the Commonwealth of Massachusetts authorizing the Town to enter into the transaction with the Developer subject to the right of the reversionary interest. In the event all of the foregoing do not occur on or before December 30, 2022, then this agreement shall be null and void and neither party shall have further recourse against the other at law or in equity.

2. The Developer shall pay to the Town, in addition to the payments enumerated in paragraph 6 below, Five Hundred Thousand Dollars (\$500,000.00) within ten (10) business days of Commercial Operations of the Project in consideration of the Town undertaking this transaction, in addition to any other payments noted herein.

3. In furtherance of the foregoing time frames, the Town will fully cooperate with the Developer in the Developer's quest for permits. Said cooperation shall include the Town supporting the applications for the construction and installation of a 5 MW AC Solar Facility to be located on the Premises, including and not limited to any applications to; the Cape Cod Commission, the Commonwealth of Massachusetts Department of Energy Resources, the Town of Bourne Conservation Commission, the Town of Bourne Planning Board and the Town of Bourne Building Department. The Developer may commence said reviews and applications upon execution of this



Agreement by both parties. The costs of said permitting and applications will be fully the responsibility of the Developer.

4. The Developer shall pay any and all real estate taxes then outstanding and due upon each of the foregoing parcels prior to conveying same to the Town.

5. The Parties agree that in the event the foregoing gift outlined in paragraph 1 is not accepted, or approval by the Great and General Court as outlined in paragraph 1 does not occur, then this Agreement shall be null and void and neither party shall have further recourse against the other in law or in equity.

6. The Town shall lease to the Developer the Premises for the sole purpose of developing a solar photovoltaic facility including five (5) Megawatts alternating current, plus or minus. The terms of said lease shall include the following mandatory terms, in addition to other negotiated terms.

- a. Term: The term of the lease shall be for twenty-five (25) years. The parties shall include an option to extend said lease for no more than ten (10) additional years. Said terms related to the extension shall be negotiated between the parties.
- b. Taxes: A tax agreement shall be entered into in accordance with the provisions of G.L. c. 59 sec. 5 clause 45<sup>th</sup> in the amount of \$160,000 annually.
- c. Insurance and Indemnification: The provisions as attached in Exhibit B.
- d. Bonds: The Developer shall provide performance and payment bonds during the construction and installation after receiving the building permit but prior to mobilization at the site in accordance with the full cost of construction.
- e. Removal Security: The Developer shall provide a form of security acceptable to the Town to guarantee removal of the facility after the expiration of the term or other termination.
- f. Rent: Rent shall be \$75,250 annually.
- g. Commercial Operations Payment: The Developer shall pay the Town \$500,000 within ten (10) business days of Commercial Operations.

7. The Town enters into this Agreement upon authorization by a Special Town Meeting of November 15, 2021 by Votes under Article 16 and 17 of the Warrant, a copy of said Votes are attached hereto and incorporated by reference. As **Exhibit C**.
8. For avoidance of doubt, so long as conditions a – c as outlined in paragraph 1 above are completed by December 30, 2022, the Developer shall gift to the Town the Premises and land noted in paragraph 1 above in accordance with this Agreement, – otherwise this Agreement shall become null and void and either party shall be without further recourse in law or in equity to either party.
9. The Developer shall deliver to the Town each of the parcels noted in 1 above free of any Hazardous Waste as that term is defined in G.L. c. 21E sec. 2 and free of any oil or related petroleum product.

10. The Developer shall use all due efforts to perform in a timely manner, diligently pursue the issuance of any and all permits required to build the facility including but not limited to local permits, regional and state permits, and interconnection service agreements with the local utility distribution company.
11. The Developer shall be responsible for any and all permitting requirements of the facility and all costs and expenses associated therewith. The Town shall cooperate with said permitting.
12. The Developer shall pay to the Town within five (5) business days of the execution hereof, FIFTEEN THOUSAND AND NO/100'S (\$15,000.00) as payment for transactional costs including legal and consulting services related to the Agreement.
13. Any notice hereunder shall be in writing and shall be deemed duly given if mailed by certified or registered mail, postage and registration charges paid, by overnight delivery service with receipt, or by hand delivery to the Town of Bourne and the Developer at the addresses set forth below:

Town of Bourne  
24 Perry Avenue  
Bourne, MA 02532  
Attention: Town Administrator

To Developer

Nextgrid, Inc.

177 Huntington Avenue, Suite 1703, Unit 73069  
Boston, MA 02115-3153  
Attention: Legal

With a copy to:  
PO Box 7775 #73069, San Francisco, CA 94120

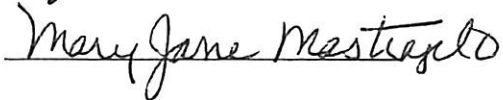
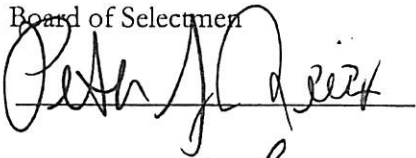
14. It is the expressed intention of the parties that each and every term, condition and provision hereof be fully enforceable and binding on the Premises. Should, however, any one or more of the provisions contained herein for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, but each shall be construed as if such invalid, illegal or unenforceable provision had never been included.
15. This Agreement shall be governed and constructed in accordance with the laws of the Commonwealth of Massachusetts. Nothing in this Agreement shall affect the rights of the Town of Bourne, in the exercise of any of its powers under applicable law with respect to the proposed development of the Property, including, but not limited, to the powers of the Bourne Planning Board or other permitting agency pursuant to its statutory powers during the required permitting

process. Nothing in this Agreement shall release the Developer from the obligation to satisfy all applicable provisions of law in the proposed development of the Premises.


16. Prior to the initiation of any court proceeding regarding the terms of this Agreement or performance thereunder, the Town and the Developer agree that such disputes shall be first subject to nonbinding arbitration or mediation, for a period not longer than sixty (60) days.
17. This Memorandum of Agreement is the entire agreement among the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous oral and written agreements and discussions.

IN WITNESS WHEREOF, this instrument is sealed and delivered as of this \_\_\_\_ day of \_\_\_\_\_, 2021.

Town  
Board of Selectmen



Developer  
Nextgrid, Inc.



Aaron Culig  
Its President

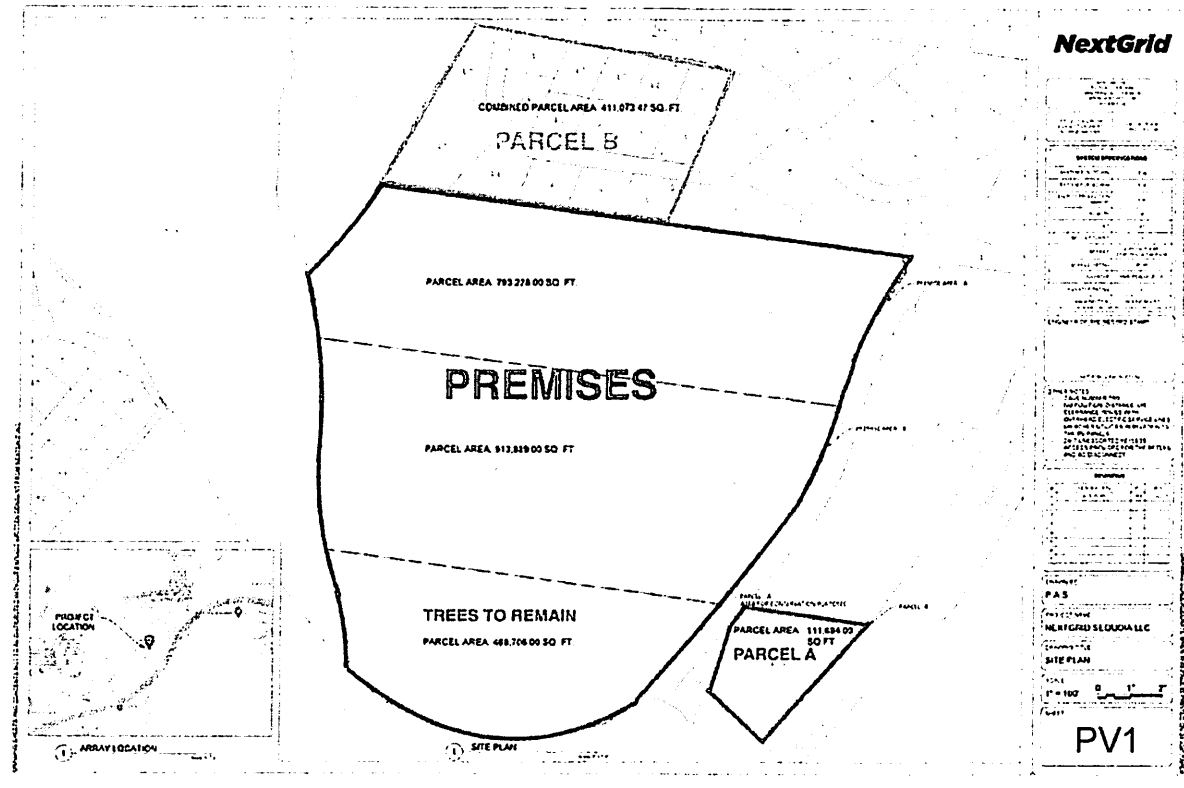


Town Counsel  
As to Form Only

## EXHIBIT A

### PREMISES (Blue Border)

- Solar Array Area: Book 13392 Page 246 - 1,707,117 square feet
- Wooded Area: Book 13392 Page 246 - 468,705 square feet



## **EXHIBIT B**

### **INDEMNIFICATION AND INSURANCE PROVISIONS**

#### **18. Indemnification:**

The Developer hereby agrees to indemnify, defend and save harmless the Town, the Town's officers, agents and employees, from and against any and all damages, liabilities, actions, suits, proceedings, claims, demands, losses, costs, expenses, recoveries and judgments of every nature and description (including attorneys' fees) that may arise in whole or in part out of or in connection with the work being performed or to be performed, or out of any act or omission by the Developer, its employees, agents, sub-contractors, material men, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by any party indemnified hereunder. The Developer hereby agrees to reimburse the Town for damage to its property caused by the Developer, its employees, agents, sub-contractors or material men, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, including damages caused by his, its or their use of faulty, defective, or unsuitable material or equipment, unless the damage is caused by the Town's gross negligence or willful misconduct.

- 18.1 The Developer hereby agrees to indemnify and hold harmless the Town, including the agents, employees and representatives of either, from and against all claims, damages, losses and expenses, including attorney's fees, arising out of or resulting from the performance of the work, provided that any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom and (b) is caused in whole or in part by any negligent act or omission of the Developer, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.
- 18.2 The Developer shall be responsible for all damage or injury to property of any character during the prosecution of the work resulting from any act, omission, neglect, or misconduct in the manner or method of executing the work or due to the non-execution of the work or at any time due to defective work or materials.
- 18.3 In any and all claims against the town or any of their agents or employees by any employee of the Developer, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in anyway by any limitation on the amount or type of damages, compensation or benefits payable by or for the Developer or any Subcontractor under workmen's Compensation Acts, disability benefit acts or other employee benefit acts.
- 18.4 The Developer hereby assumes the entire responsibility and liability for any and all injury to or death of any or all persons, including the Developer's employees, and for any and all damage to property caused by, resulting from or arising in whole or in part out of any act, omission, or neglect on the part of the Developer or of any Subcontractor or of anyone directly or indirectly employed by any of them, or of anyone for whose acts any of them may be liable in connection with operations under the Contract.
- 18.5 The Town agrees to make reasonable effort to notify the Developer of any duty arising out of this paragraph, but failure to make timely notice will not relieve the Developer of any duty under this paragraph.

The foregoing provisions shall not be deemed to be released, waived, limit or modified in any respect by reason of any surety or insurance provided by the Developer under the Contract.

## 19. Insurance

### 19.1 Workers Compensation Insurance:

The Developer shall provide by insurance for the payment of compensation and the furnishing of other benefits under Chapter 152 of the General Laws of Massachusetts (The Worker's Compensation Act) to all employees of the Developer who are subject to the provisions of Chapter 152 of the General Laws of Massachusetts.

Failure to provide and continue in force such insurance during the period of this Contract shall be a material breach of this Contract, shall operate as an immediate termination thereof, and the Developer hereby agrees to indemnify the Town for all losses, claims, and actions resulting from the failure to provide the insurance required by this Article. The Town agrees to make reasonable effort to notify the Developer of any duty arising out of this paragraph, but failure to make timely notice will not relieve the Developer of any duty under this paragraph.

The Developer shall furnish to the Town a certificate evidencing such insurance prior to the execution of this Contract before the same shall be binding on the parties thereto, except if specifically waived by the Town.

### 19.2 Other Insurance Requirements

- a. Comprehensive commercial general liability insurance with limits of at least \$1 Million per occurrence and \$3 Million annual aggregate for property damage and \$1 Million per person and \$3 Million per occurrence for bodily injury, which shall include the Town of Bourne as an additional insured, and which shall cover bodily injury, sickness or disease, or death of any person including employees and those persons other than the Developer's employees, and claims insured by usual personal liability coverage, death, or property damage arising out of the Work including injury or destruction of tangible property, including loss of use resulting therefrom.
- b. Motor vehicle insurance for any motor vehicles used in performing the Work, with limits of at least \$500,000 per person, and \$1 Million per accident.
- c. The intent of the Specifications regarding insurance is to specify minimum coverage and minimum limits of liability acceptable under the Contract. However, it shall be the Developer's responsibility to purchase and maintain insurance of such character and in such amounts as will adequately protect it and the Town from and against all claims, damages, losses and expenses resulting from exposure to any casualty liability in the performance of the work, including and not limited to Professional liability insurance where applicable.
- d. All policies shall identify the Town as an additional insured (except Workers' Compensation). The Developer shall notify the Town immediately upon the cancellation or amendment to any policy. Renewal Certificates shall be filed with the Town at least ten (10) days prior to the expiration of the required policies. Certificates evidencing all such coverage shall be provided to the Town upon the execution of this Contract, and upon the renewal of any such coverage. Each such certificate shall specifically refer to this Contract and shall state that such insurance is as required by this Contract. **Failure to provide the notices required in this Section or to continue in force such insurance shall be a material breach of this Contract and shall be grounds for immediate termination.** Said insurance shall include: Workers Compensation/Employers' Liability Insurance, Business Automobile Liability Insurance, and Commercial General Liability Insurance (CGL). The CGL policy shall include coverage for liability arising from premises, operations, independent Developers, personal injury, contractual liability. All Certificates of Insurance shall be on the "MILA" or "ACORD" Certificate of Insurance form, shall contain true transcripts from the policies, authenticated by the proper officer of the Insurer, evidencing in particular those insured, the extent of coverage, the location and operations to which the insurance applies, the expiration date and the above-mentioned notice clauses. All insurance shall be written on an occurrence basis. Coverages shall be maintained without interruption from date of the Contract until date of final payment and termination of any coverage required to be maintained after payment.
- e. The Developer shall obtain and maintain during the term of this Contract the insurance coverage in companies licensed to do business in the Commonwealth of Massachusetts and acceptable to the Town.



The Town of Bourne invites you to a

# Public Workshop

Low Lying Roads Project



**Learn** about the goals and objectives of the low lying roads project and the hazards associated with coastal flooding



**Evaluate** low lying roads most vulnerable to coastal flooding and decide which roads are most critically at risk



**Identify** priority road segments that should be considered for adaptation solutions

TOWN CLERK BOURNE

2022 JAN - 6 PM 3:23

RECEIVED

Wednesday, February 2, 2022; 2pm

LINK: <https://capecodcommission.org/llr/join>

Passcode: join

Phone: (929) 205-6099

Meeting ID: 935 5189 6265



CAPE COD  
COMMISSION

Have questions? Contact Sam Haines at [shaines@townofbourne.com](mailto:shaines@townofbourne.com)

For more information visit: <https://www.capecodcommission.org/our-work/low-lying-roads-project/>