

Bourne Charter Review Committee Charge

In 2001, the citizens of Bourne adopted a home rule charter. The charter defines Bourne's form of government as a professional Town Administrator working for a part-time, 5 member Board of Selectmen. Bourne's charter also describes the duties, responsibilities and authority of most Town boards, departments and officers.

Charter Review Committees are required in the Bourne Town Charter to be formed every 5 years, and have been active in 2005, 2010 and 2015. As outlined in the Bourne Town Charter, the Charter Review Committee shall be appointed by the Board of Selectmen. The charge of the Charter Review Committee is to review the Charter, conduct public meetings, listen to the comments of interested citizens, town officials and invited guests, and then prepare a report to present to the Board of Selectmen and then at the next Annual Town Meeting. The Charter Review Committee cannot change the charter, changes to the charter require a vote at Town Meeting and a vote of the State Legislation. The Board of Selectmen would be the sponsor for any article that may appear on a future Town Meeting Warrant relative to recommendations to change the Bourne Town Charter.

The Charter Review Committee cannot recommend changing the basic form of government, only a formal Charter Commission can do that.

Timelines and Milestones

September 2020 – The Charter Review Committee will be appointed

Summer/Fall 2020 – Charter Review Committee Meetings

January 5, 2021 – Charter Review Committee report to the Board of Selectmen

Winter/Spring 2021 – Possible Town meeting Warrant Article Development

May 3, 2021 – Charter Review Committee report¹ to Town Meeting

¹ The Charter Review Committee can give a progress report at Town Meeting if the charter review is not complete.

Bourne Charter Review Committee Background Information

A municipal charter is the basic law that defines the organization, powers, duties, functions and essential procedures of the municipality's government. It is comparable to the Constitution of the United States or the Commonwealth of Massachusetts. It creates the body politic and gives form to the municipality's government. It is distinguished from a municipality's ordinances or bylaws which regulate routine transactional matters relating to public safety, zoning, municipal services, public health, commerce and trade and similar matters. The charter review committee must be cognizant of the difference and assure that the charter remains true its purpose.²

It is important to note that the Board of Selectmen appoints a Charter Review Committee. The board may not appoint a Charter Commission which is an elected body. There are significant differences between a Charter Review Committee and a Charter Commission. A municipality adopts a new charter or substantially revises a previously adopted charter by means of a Charter Commission. A Charter Commission is created when 15% of the registered voters sign a petition filed with the town clerk for the formation of a Charter Commission. The members of a Charter Commission are elected by the voters. Only a Charter Commission may propose a change in the charter relating in any way to the composition, mode of election or appointment, or terms of office of the legislative body, the mayor or city manager, the board of selectmen or the town manager.²

The charter may be revised or amended in accordance with the Home Rule Amendment to the Constitution of the Commonwealth of Massachusetts and Chapter 43B of the General Laws, commonly known as the Home Rule Procedures Act.²

Section 8-1 of the Bourne Home Rule Charter provides in sub-section (a): "This charter may be replaced, revised or amended in accordance with the procedures made available by Article LXXXIX (89) of the amendments to the constitution of the Commonwealth and any legislation enacted to implement the said amendment."³

Section 8-1 of the Charter also provides for Periodic Charter Review: "At least once in every five years a special committee shall be appointed by the Board of selectmen for the purpose of reviewing the provisions of the charter and to make a report to the Town Meeting concerning any proposed amendments or revisions which the committee deems necessary. The committee shall be appointed immediately following an annual Town Meeting and shall make its report at the

² Frank K. Duffy, Town of Falmouth Memorandum, January 2, 2018

³ Robert S. Troy, Letter to Bourne Charter Review Committee, September 25, 2005

next annual Town Meeting." The Board of Selectmen has appointed such a committee and the Committee inquiries about the scope of review available to the Committee.³

A Charter Review Committee's powers are limited by the powers granted exclusively to Charter Commissions. A Charter Review Committee focusses on amendments to an existing charter intended to make it a more effective document but do not make substantive changes to the form of government.¹

The Charter Review Committee holds numerous public hearings and submits a report of suggested amendments to the Board of Selectmen. The Board of Selectmen may direct the Town Administrator to draft articles relative to amending the Charter for Town Meeting. The draft articles recommended by the board are submitted to town meeting where a two thirds vote is necessary for approval. Following town meeting, the approved articles are submitted to the Attorney General for review as consistent with the Constitution and laws of the Commonwealth. The Attorney General has four (4) weeks to make this determination. The Charter changes are submitted to the voters at a town election. A majority vote by the voters is necessary for final approval.

Members of a Charter Review Committee are subject to the Conflict of Interest Law and all of its meetings are subject to the Open Meeting Law.

¹ The Charter Review Committee can give a progress report at Town Meeting if the charter review is not complete.

³ Robert S. Troy, Letter to Bourne Charter Review Committee, September 25, 2005