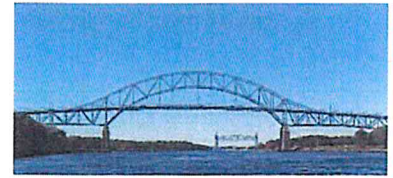


Charter Review Committee AGENDA



Date

April 14, 2021

Time

7:15 P.M.

Location

Zoom Remote

Public Access: See Below

Note this Zoom videoconference meeting is not being televised, but is being recorded for later broadcast by Bourne TV. If anyone from the public wishes to access the meeting, they can do so by following the instructions below:

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 below, by going to <https://zoom.us/join> and look for the Join Meeting button.

Type in the Meeting ID and Passcode, or by phone calling the number below:
1-929-205-6099 and follow the instructions.

Meeting ID: 336 977 3054

Passcode: Join

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. **Please MUTE your phone/microphone upon entry.**

All items within the meeting agenda are subject to deliberation and vote(s) by the Charter Review Committee.

1. 7:15 P.M. Call Public Session to Order in Open Session
2. Public Comment on non-agenda items. Public Comment is at the sole discretion of the Chairman.
3. Review and Approval of Minutes for March 31, 2021
4. Review Correspondence
5. Discussion of Public Survey
6. Discussion of Charter Section 1 through Section 4
 - Reference Summary of Recommendations to Charter Changes Dated 03/31/2021
7. Discussion of Agenda Items for Next Scheduled Meeting
8. Adjourn

TOWN CLERK BOURNE
2021 APR -9 PM 12:00

RECEIVED

Summary of Recommendations to Charter Changes Dated 03/31/2021

Black Type: Charter Review Committee

Purple Type: Select Board Members

Blue Type: Town Administrator/Assistant T.A.

Red Type: Acting Fire Chief/Town Clerk/Moderator

Brown Type: Chair of FinCom

Preamble: Add definition of Home Rule after Preamble

11.17.2020 “Home Rule is the power of a local city, town or county to set up its own system of self-government without receiving a charter from the state. It gives our community the ability to amend our governmental organization and powers to suit our needs. A Home Rule Charter is, in essence, a local constitution.”

Article 1-2 Charter and Form of Government

3.17.2021 Change BOS to “Select Board” throughout the charter. This is a common change in many towns, and this would be an appropriate time to do it.

Article 2-1 Open Town Meeting:

2.10.2021 Suggested to research moving from an Open Town Meeting format to a Representative Town Meeting format.

Article 2-5 Initiation of Warrant Article:

11.17.2020 Communication by the town –day to day, but particularly through warrants – needs some work. Is the charter the place to address this?

2.10.2021 Include language mentioning “Special Town Meeting” for Voter Handbook submission.

3.10.2021 In section (c) add Strategic Plan language with goals and objectives and not having to re-invent the goals every year, should be tied into vision/mission along with the Strategic plan. Deadline date is too specific, need it to be more flexible such as “within the first ¼ after election” New board members need time to get acquainted with their roles and responsibilities in order to set goals.

3.17.2021 Change from 25 days to 30 days to close the warrant for special town meeting. Make clear whether the articles in the warrant are BOS or petition articles by citizens of town. Part (C) should include website language for availability of the warrant. **Change 25 days to 30 days for closing STM warrants and clarify the wording regarding closing the warrant for special town meeting that is called less than 30 days before the date of the special town meeting. Suggestion (b): “the BOS shall close the warrant not less than 50 days prior to the date of the annual town meeting and not less than 30 days prior to the date of any special town meeting. By 4/5th vote of members present and voting, the board of selectmen may waive the aforementioned 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 (c) is poorly worded – fix punctuation and sentence structure. Clarify voter handbook requirement for STM. Suggested (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. BOS and

any other appointed or elected board of committee proposing an article. In the voter handbook for the annual town meeting the selectmen shall include the recommended operating budget with revenue projections, their budget goals, the departmental goals for the upcoming fiscal year, an organizational table and five year financial, debt and capital projections. Suggested (d): The voter handbook shall be available to the public at the town hall, the public library and on the town website not less than 15 days before the annual town meeting or any special town meeting. By majority vote, the BOS may waive the aforementioned 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.

Article 2-9 Finance Committee:

2.10.2021 Should be restriction on FinCom members not being able to serve on other fiscal committees including Capital Outlay, building Projects. Appears to be a conflict as they serve on these committees then appear before their own FinCom to review proposals.

3.10.2021 Chair of FinCom should not be Chair of any other committee.

Article 3-1: Term of Office, Composition:

11.17.2020 What are the pros and cons of having a select board also serving as sewer commissioners? Also: shouldn't this role be tied more closely to town planning? With the need for water/sewage treatment, this seems like a serious time sink for a part-time board. Is it ok?

2.10.2021 Time to adopt legislation to create a new board of sewer commissioner. Sewer Commissioner board should be appointed by the B.O.S. and report to BOS. Suggestion leaving current BOS as Sewer Commissioners or move the role and responsibilities to the DPW except for setting sewer rates. (note changing this section of the charter would require a change in government by an ELECTED Charter Review Board and NOT by an Appointed Board.) Although the work has increased with the Sewer commission, BOS should remain as Sewer Commissioners.

3.10.2021 Name change to reflect gender neutrality. Last sentence relative to serving as Sewer Commissioners should be removed. Sewer Commissioners would no longer be relevant – not a political position, may shift away from being sewer commissioners and working towards an Advisory Working Group being created from time to time with professionals in the field advising the town. Some responsibilities and decision making would be left in the hands of the BOA.

3.17.2021 Language change from "serve as" to "act as" to be consistent with MGL Chapter 41 Section 21. Change "serve" as to "ACT" as sewer commissioners. Matches MGL Chapter 41 section 21 that was confirmed by ballot vote of the Town in 1988.

3.31.2021 Time to have a separate Board of sewer Commissioners, take the politics out of the position and have appointed members from finance, DPW, BOS, BOH, BB Water Coalition. Sewer Commissioners would be more of an advisory board with specific duties outlined in the charter, still allowing for BOS to have some authority.

Article 3-3 Policy Role:

2.10.2021 Suggestion to replace the words “written policy goals” to language that includes goal setting using the strategic plan should be noted. In the 2nd paragraph stating that no individual selectman shall have no independent authority.... etc. It should be removed or applied to boards, committees and commissions. 2nd Paragraph – 2nd sentence needs clarification or removed completely. (Selectmen shall deal with administrative agencies and departments only through the town administrator)

3.10.2021 2nd paragraph should include all committees/board members/commissions and not just BOS working through the Town Administrator. Add language to include a timeline for reviewing town policies on a periodic basis similar to charter review timeline.

3.17.2021 DO NOT remove language surrounding individual BOS members having no independent authority, etc....Do not remove language “an individual selectman shall have no independent authority unless specifically authorized by a vote of the board of selectmen.” This is an important concept and consistent with board operations. There is no individual authority, only board authority. Both the BOS and School Committee operate based on this process.

3.31.2021 2nd paragraph should not be modified in any way.

Article 3-4 Powers and Duties

3.10.2021 Last sentence (The board of selectmen 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) needs additional clarity, what about roads and traffic issues? Where does that authority fall?

Article 3-5 Appointing Powers:

2.10.2021 No mention of Labor Counsel. TA should have language to hire a Labor Counsel in the charter under this article. Consider having an Appointing Authority Committee with Chair of BOS well as the Moderator and perhaps the Chair of the Committee someone is being appointed to. If three people are appointing then you have more decision makers and in the event a person must be removed or dismissed, three allows for conversation and reasoning.

3.10.2021 Last sentence (All boards, committees and commissions appointed by the board of selectmen shall be responsible to the board of selectmen), What does the word “responsible” mean? Clarify what reporting to BOS looks like and how often.

Article 3-7 Intergovernmental Relations

3.10.2021 Should it be required to have an active list of committees somewhere at all times?

Article 3 – 8 Rules of Procedure:

11.17.2020 Do we need language to reference MGL Open Meeting Law

Article 4 – 1 Appointment, Qualifications, Term:

11.17.2020 Is the qualification language necessary in the charter or should it be in an appendix, should residency be a requirement of the position? Why are we so specific about the qualifications of the town administrator and the town accountant? Does it prevent hiring someone who is very promising but not meeting every last letter? Change the 3rd paragraph relative to residency or strike it out altogether, seek feed-back from B.O.S. and other department heads for further information as to whether not living in the town disrupts the government of the town, not our charge to change the qualifications, fear of narrowing the pool of candidates if restricting residency or experience and BOS's ability to hire a competent individual, need to check with BOS as to their policy and process so as not to inhibit their role and responsibilities. What is the town's personnel policy, concern for gaps and how do we close them between HR and Charter, are we getting too far into the weeds of looking at the qualifications, suggestion to list other areas of the charter where residency is part of qualifications to be sure there is consistency, if not, should there be? A great deal of power is vested in the T.A., who is not an elected official. A great deal is also expected of that person – perhaps more expertise than one person could have. Is it current arrangement working? Also: the section does not in any way address that we have an assistant/deputy town administrator.

2.10.2021 Residency requirement should be eliminated. Residency may hinder ability to attract and retain qualified individuals. *Residency does not equate to lack of job performance or a non-vested interest in the town.*

3.10.2021 Add language indicating that the Town Administrators contract is not automatically renewed. Residential requirement is irrelevant.

3.31.2021 *Residency requirement not relevant. May hinder qualified candidates.*

Article 4-2 Relationship of Town Manager and Board of Selectmen:

11.17.2020 Language in the 2nd paragraph “properly supervise,” what does that mean, should there be a procedural section here as to how the TA will properly supervise municipal employees.

2.10.2021 *Needs to be more transparency and structure to the evaluation of the TA by the BOS. Should be done in open session with all documentation and reviews by each member of the committee be of public record. Should be adopted in Policy or By-Law?*

3.10.2021 2nd paragraph concerning evaluation of T.A. incorporate the strategic plan in the evaluation language and that the evaluation shall be conducted in public session differentiating between a personnel matter and a job performance evaluation.

3.17.2021 Evaluation of T.A. should be in a BOS Policy. however, the charter should reference the evaluation a little more clearly (not embolden)

Section 4-3: Vacancy in Office.

12.1.2020 Any permanent vacancy in the office of town administrator shall be filled as soon as possible by the board of selectmen. Pending the appointment of a town administrator, the board of selectmen shall, within 30 days, appoint some other qualified person to serve as the acting town administrator.

NOTE: The above does not recognize the Assistant Town Administrator.

2.10.2021 ATA should not be included in the language

SUGGEST:

Section 4-3: Vacancy in Office.

Any permanent vacancy in the office of town administrator shall be filled as soon as possible by assistant town administrator. Should the assistant town administrator be unable to serve, the board of selectmen shall, within 30 days, designate some other qualified employee of the town to serve as the acting town administrator.

2.10.2021 ATA position should be noted briefly in the Charter; however, detailed job descriptions/roles should not be included as this is the responsibility of the TA as the direct supervisor to the ATA. Vacancy in office should not include language stipulating that the ATA automatically be selected. Language should have the flexibility to allow the TA to appoint as is the language now.

Article 4-4 Temporary Absence:

11.17.2020 Should there be additional language to include the Assistant Town Administrator to step in in the temporary absence of the T.A., should list successors, replace language “some other” in the same paragraph. Should there be an additional article relative to the Assistant Town Manager’s appointment, term and duties, etc., need to establish differences between these two roles in Charter?

Section 4-4: Temporary Absence.

12.1.2020 The town administrator shall, by letter filed with the town clerk and board of selectmen, 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. If the town administrator fails to make a designation or if the person so designated is unable to serve, the board of selectmen shall designate some other qualified employee of the town to perform the duties of the town administrator until the town administrator shall return.

2.10.2021 Same as above. Do not include ATA in language, leave flexibility on part of the TA

NOTE: The above does not recognize the Assistant Town Administrator.

SUGGEST:

Section 4-4: Temporary Absence.

The town administrator shall, by letter filed with the town clerk and board of selectmen, designate as acting town administrator, the assistant town administrator 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. If the town administrator fails to designate the assistant town administrator or if the person so designated is unable to serve, the board of selectmen shall designate some other qualified employee of the town to perform the duties of the town administrator until the town administrator shall return.

Add new article 4-A for the Assistant Town Administrator

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Bourne Charter Review Committee DRAFT Summary of Changes - March 31, 2021

Note: While committee comments may be included within the summary they do not represent a decision or a vote by the committee.

Assistant Town Administrator

Section 4-A-1: Appointment; Qualification; Term

12.1.2020 The town administrator shall appoint an assistant town administrator.

The town administrator shall appoint the assistant town administrator for a term defined by contract and fix the town assistant administrator's compensation within the amount annually appropriated for that purpose. The assistant town administrator shall be appointed solely on the basis of executive and administrative qualifications.

The assistant 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 assistant 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 years' experience in an upper-level executive municipal position or any equivalent combination of education and experience.

The assistant 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 assistant 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. The town may from time to time, by by-law, establish such additional qualifications as it deems necessary and appropriate.

Section 4-A-2 Powers and Duties.

The assistant town administrator shall report to the town administrator. The assistant town administrator shall be responsible for the proper administration of all town affairs placed in the assistant town administrator's charge by or under the charter. The assistant town administrator shall have the following powers and perform the following duties:

To Be Completed

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

12.1.2020 The board of selectmen, by an affirmative vote of 4 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

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Bourne Charter Review Committee DRAFT Summary of Changes - March 31, 2021

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administrator forthwith upon its adoption. The administrator, within 5 days of receipt of the resolution of removal, may request a public hearing by the board of selectmen on the reasons stated in the resolution of removal. The board of selectmen shall convene the requested hearing not less than 7 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 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 may adopt a final resolution of removal not earlier than 5 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 members of the board of selectmen. Failure to adopt a final resolution of removal within the time limits set forth herein shall nullify the preliminary resolution of removal.

The action of the board of selectmen in suspending or removing the town administrator shall be final. The town administrator shall continue to receive the town administrator's salary until a final resolution of removal becomes effective.

NOTE: Recognize the assistant town administrator position.

SUGGEST:

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

(Leave first three paragraphs unchanged.)

Add the following paragraph:

In the event of a removal or suspension of a town administrator pursuant to this section the authority of the town administrator the authority of the town administrator to appoint a temporary or acting town administrator provided in section 4-4 shall be suspended and the assistant town administrator shall be forthwith the acting town administrator.

2.10.2021 Do not add these sections to include ATA

3.17.2021 Do not add position of Assistant T.A. in charter. Doesn't allow for flexibility of T.A. to reorganize in the event of a financial crisis. IF the position is in the charter, does it always have to be filled?

3.31.2021 A.T.A. position should not be added to Charter. TA needs flexibility for reorganization.

Article 4-6b, i and m Powers and Duties of TA:

11.17.2020 Should human resources functions be separated out from the Administrator? Is that perhaps already addressed by a deputy administrator?

Article 4-6 Powers and Duties of T.A.

3.10.2021 Section (e) language added about the T.A. maintaining confidentiality. Should this be stated as an “all encompassing” statement somewhere in the charter and apply to all boards/committees, commissions, employees, etc. Section (i) Change the word “personnel” to “human resources”

Article 4-6, I and 4-6m Powers and Duties of TA:

2.10.2021 The 30-day requirement to report to the board of all changes to the “compensation plans” is very broad. The town has hundreds of employees and any changes to the contract are within the individual town budgets that were voted on at Town Meeting. The report to BOS should only be for those NOT reflected in the voted upon town budget. The compensation plan should not be referred to in the Charter.

3.17.021 Define what the duties and powers of an interim T.A. should have. Clarify the power of an acting or interim town administrator. Suggested (a) Pending appointment of a town administrator, the board of selectman shall, within 30 days, appoint some other qualified person to serve as the acting or interim town administrator. (b) An acting or interim town administrator appointed by the BOS shall have all of the powers and perform all of the duties of the town administrator in accordance with Section 4-6: Powers and Duties of T.A. A consideration might be given as to whether there should be any limitations on the Powers and Duties of an acting or interim – which could be specified in the charter or there could be a provision in the charter for the BOS to be able to limit powers and duties of acting or interim town administrator by majority of the BOS. Hiring, in 2019, was subject to approval of the BOS.