

Final Report of the Marshfield Charter Commission



1640

2003

MARSHFIELD CHARTER COMMISSION

FINAL REPORT

Attached hereto is the text of the charter proposed by the Commission to the town.

The proposed charter is the result of meetings and discussion with all elected boards and many appointed commissions and committees of the town and in any civic groups and individuals who wished to express ideas or comments.

The principal problem raised at the public hearings and indeed by some of the town departments and committees appeared to be two fold.

1. A general lack of communications between departments resulting in many citizens feeling they were unable to get specific answers to specific problems, an apparent need for an “in charge” person, available at least during normal business hours; and
2. An intense desire on the part of the citizens to maintain their voice in town affairs through institution of the election process as it presently applies.

We feel the Charter answers both problems through the establishment of a town administrator. This office is somewhat unique in that while the administrator is appointed by and reports to the Board of Selectmen, he has no direct authority over the various “elected” boards, but is in fact an ‘ex-officio’ member of all such boards with the right to attend meetings and participate in discussions. He is perhaps best described as a coordinator between the various departments and the Board of Selectmen which is intended as the executive department. Under the Charter the Board of Selectmen have spelled out their authority to investigate any department of the town, an authority which establishes this executive status, but one which your commission hopes they will be little required to use.

The Selectmen are further given the authority to make appointments to all non-elected commission and committees, unless town meeting vote specifically authorizes otherwise.

The Charter establishes a new central purchasing department, authorized to administer the purchasing needs of all town departments. This function will be under the supervision of the town administrator and will hopefully result in savings for the town.

The engineering division of the Department of Public Works has been strengthened with the expectation that many of the functions now performed under outside contracts can be handled by the town with increased effectiveness and savings. The Department of Public Works will provide or supervise engineering services for all town needs. This department will also perform or supervise maintenance and repairs to all town buildings, a function in many instances formerly contracted for by individual departments.

The Charter sets out specific procedures for the recall of any elected official and removal of any appointed official. These procedures, particularly that of recall may seem somewhat involved, but in view of the seriousness of the proceedings, they are designed to be fair to all parties.

The only change pertaining to elected town officials is the prohibition against holding multiple elected offices with certain exceptions.

Your Commission believes that the Charter as written presents a workable and efficient governmental structure for the town, and presents it herewith for your consideration.

**TOWN OF MARSHFIELD
CHARTER**

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ARTICLE 1

INCORPORATION: FORM OF GOVERNMENT: POWERS

1-1 Incorporation

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

1-2 Form of Government

The administration of the fiscal, prudential and municipal affairs of the town shall be vested in an executive branch to consist of the board of selectmen and other elected officers and a legislative branch to consist of the open town meeting.

1-3 Powers

Subject only to express limitations on the exercise of any power of function by a town in the constitution or statutes of the commonwealth it is the intent and purpose of the voters of Marshfield to retain and secure through the adoption of this charter all of the powers it is possible to secure for the town under the constitution and statutes of the commonwealth.

1-4 Construction

The powers of the town under this charter are to be construed liberally in favor of the town and the specific mention of particular powers is not intended to limit in any way the general powers of the town as stated in section 1-3.

ARTICLE 2

TOWN MEETING

2-1

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

2-2

At least one member of each elected Board shall be present at each session of Town Meeting. Appointed officers and members of any appointed Commission, Committee or Study Group shall attend if so requested by appointing authorities.

2-3

The Town Meeting Warrant shall either be published in a newspaper with general circulation in the town, or shall be mailed to every household in which a registered voter resides, no later than two weeks prior to the opening of the first session of town meeting.

2-4

- (A) The Warrant for the Annual Town Meeting shall open for submission of articles on the first (1st) Monday in January and shall close on the fourth (4th) Monday in January. For Special Town Meetings, the Warrant shall open no later than 30 days prior to the opening of the

- first session and shall remain open for 10 days.
- (B) The Board of Selectmen shall give notice of the opening and closing of the Town Meeting Warrant at least seven (7) days prior to such opening or closing to all elected boards, appointed committees and department heads, and shall post such notice in at least ten (10) prominent locations in the Town, including but not limited to the Public Library and Town Hall. Such notice shall be published in a newspaper with general circulation in the Town at least seven (7) days prior to such opening.

ARTICLE 3 ELECTED OFFICIALS

3-1 General Provisions

(A) Elective offices -- The offices to be filled by ballot of the whole town shall be, 1) a board of selectmen, 2) a board of assessors, 3) a board of public works, 4) a planning board, 5) a board of health, 6) trustees of the Veterans Memorial, 7) a school committee, 8) a moderator, 9) a town clerk, 10) a housing authority.

(B) Eligibility -- Any registered voter of the town shall be eligible to hold any elective town office; but no elected town official shall simultaneously hold any other elected town office. This section (B) shall not apply to any person who has received or receives tenure of office under the provision of c41S19B, C of the General Laws.

(C) Election -- The regular election for town office shall be held annually on the date fixed by by-law.

3-2 Elected Town Boards, Duties, Terms, etc.

3-2-1 Selectmen

(A) Composition, Term of Office -- There shall be a board of selectmen consisting of three (3) members elected for three-year overlapping terms, so arranged that the term of one member shall expire each year.

They shall receive for their services such compensation as may annually be provided for that purpose by appropriation.

(B) Powers and Duties in General -- The executive powers of the town shall be vested in the board of selectmen, and shall be exercised by them or jointly through the town agencies and offices. The board of selectmen shall cause the laws and orders for the government of the town to be enforced, and shall cause a record of all their official acts to be kept.

In addition to aforesaid powers and duties, they shall exercise such powers and duties as are and may be provided by the General Laws, this charter, by-law and/or vote of the town meeting. The Planning Board shall be consulted for a written recommendation by the Board of Selectmen prior to any action on the use and siting of any town owned property.

(C) Appointments -- The selectmen shall appoint, for fixed terms of one year, election officers, director of veterans' affairs, and a town counsel, and for a fixed term, as provided in Art. 4, a town administrator for a fixed term as provided in Article 4, a Facilities Manager; and for a three-year term, a town accountant. They shall appoint for fixed overlapping terms of three years, so that the term of at least one member expires each year; the members of the board of appeals, library trustees, registrars of voters, advisory board and the following commissions: conservation, recreation, historical, development and industrial, council for aging, airport, communications, and the following committees:

insurance, school building, permanent site and needs, capital budget, beautification and study groups in accordance with Art. 7 hereof.

(1) Unless otherwise provided by this Charter or by-law, they shall have the power to appoint department heads, other appointed board, commission and committee members, and other town officials and employees as authorized or as may be authorized by the General Laws, this charter, by-law or Town Meeting and for whom appointment is not otherwise provided.

(2) In consideration of the unique historical background and the special historic significance of the town the selectmen may, with the approval of the Historical Commission, appoint a town historian for a term not to exceed seven years. The historian shall perform such duties as the Historical Commission may from time to time designate and may receive reimbursement for expenses to be within the amount so appropriated by the town meeting.

(D) Investigations -- The board of selectmen may investigate and may authorize the town administrator to investigate the affairs of the town and the conduct of any town department, including all elected boards, offices or agencies, and any doubtful claims against the town and take any action relative thereto. The report of the results of such investigation shall be placed on file in the office of the board of selectmen.

(E) Building Inspection Department - There shall be a Building Inspection Department administered by the Inspector of Buildings, who shall be appointed by the Selectmen. The Building Inspection Department shall have responsibility for administration of the town building code by-law or as amended or superseded by state regulation. The local Building Inspector, Local Inspector for Wires, Local Inspector for Gas, Local Inspector for Plumbing and other inspectors as from time to time are determined necessary and their assistants shall be appointed annually by the Selectmen unless otherwise provided for by the General Laws.

3-2-2 Board of Assessors

(A) Composition, Term of Office -- The board of assessors shall consist of three (3) members elected to three-year overlapping terms, so arranged that the term of one member shall expire each year.

(B) Compensation -- The members of the board of assessors shall receive for their services such compensation as may annually be provided for that purpose by appropriation.

(C) Powers and Duties in General -- The board of assessors shall have all powers and duties as set forth in the applicable provisions of the General Laws or as may be authorized by this charter or by-law.

3-2-3 Board of Public Works

(A) Composition, Term of Office -- The board of public works shall consist of three (3) members elected for three-year overlapping terms so arranged that one term expires each year. They shall receive for their services such compensation as may annually be provided for that purpose by appropriation.

(B) Powers and Duties in General -- The board of public works elected under section 3-2-3 shall be responsible for organizing and administering the following functions: construction and maintenance, highways, water and sewer systems, tree care, and parks, including landscaping and ground maintenance of all town buildings and property, and such other public works and related functions as may from time to time be vested in it through the General Laws, this charter, by-law or vote of the town meeting; and to this end the board shall, following each annual town election: (a)select from its

membership a chairman, a vice-chairman, and a clerk for the ensuing year; and (b) be administratively organized into the following divisions: highway, water, trees, and cemeteries and parks.

The board of public works, by a majority vote of its full membership, shall appoint a superintendent of public works for an initial term of three years and annually thereafter and shall fix his compensation within limits of an appropriation made for that purpose. The superintendent shall: (a) be especially qualified by education, training, and experience to perform the duties of the office and have such other qualifications as may be determined by by-law; (b) exercise and perform, under the board's supervision and direction, those public works functions for which the board is responsible; and (c) appoint, subject to approval by the board, such assistants, agents, and other employees as the exercise and performance of his powers, rights, and duties may require. The superintendent shall give the town a surety bond for the faithful performance of his duties in such sum and upon such conditions as the board may require; shall keep the board fully informed as to the public works needs of the town; shall keep a full and complete record of his operations; shall render to the board, as often as it may require, a full report thereon; and annually or more often shall prepare a synopsis of such reports for publication.

(C) **Engineering Department --**

1 **Organization --** There shall be an engineering department administered by the Superintendent of Public Works.

2 **Duties-Administrative --** The engineering department shall provide the town with engineering services by town employees and by contracting with qualified architectural/engineering firms.

3 **Duties-General --** The Engineering Department shall certify that all subdivision, sewerage and other such plans and specifications required by town by-laws conform to such by-laws and shall be responsible for maintenance of assessors' and town maps and certification of plans and specifications for public works construction projects. The Engineering Department shall provide onsite inspection to assure proper construction performance in accordance with subdivision plans and site plan approvals made by the Board of Appeals. The Engineering Department shall also provide engineering and other technical assistance to the Planning Board, Board of Health, Conservation Commission, Facilities Manager or any other town board or commission, reasonably requesting such service.

A) The Engineering Department shall have final approval responsibility for all plans and specifications relating to new construction and/or alterations or modifications of any existing town owned structure and shall consult with the Facilities Manager on all town owned buildings.

B) When reasonably requested the department shall supply engineering information to the town meeting.

3-2-4 **Planning Board**

(A) **Composition, Term of Office --** The planning board shall consist of five members elected to five-year overlapping terms so arranged that the term of one member shall expire each year.

(B) **Compensation --** The planning board shall receive for their services such compensation as may annually be provided for that purpose by appropriation.

(C) **Powers and Duties --** The planning board shall from time to time make careful studies and when necessary prepare plans of the resources, potentials and needs of the town, and upon the completion of any such study, shall submit to the selectmen and town such part or parts thereof as said board may deem advisable and from time to time may extend or perfect such plan. A master plan for the Town is to be updated or revised in its entirety every 10 years or as the Planning Board or others deem advisable out of funds to be provided by appropriation. In carrying out its tasks the planning board may employ the town Engineering Department or outside consulting firms when special skills

are required.

1) The Planning Board, by a majority vote of its full membership shall appoint a Town Planner and staff as may be provided by appropriation.

2) The planning board shall regulate the subdivision of land within the meaning of the subdivision control law of the General Laws.

3) The planning board shall serve in an advisory capacity to any town department as required or requested.

(D) In addition to all powers and duties set forth herein, the planning board shall have all such powers and duties as set forth in applicable provisions of the General Laws or as may be authorized by this charter or by by-law.

3-2-5 Board of Health

(A) Composition, Term of Office -- The board of health shall consist of three (3) members elected to three-year overlapping terms, so arranged that the term of one member shall expire each year.

(B) Compensation -- The members of the board of health shall receive for their services such compensation as may annually be provided for that purpose by appropriation.

(C) Powers and Duties in General -- The board of health shall have all powers and duties as set forth in the applicable provisions of the General Laws or as may be created by by-law or this charter.

3-2-6 Trustees of Veterans Memorial

There shall be a board of trustees of the Veterans Memorial, which shall be elected and have the power and duties as set forth in the pertinent section of the General Laws (c41 S 105).

3-2-7 School Committee

(A) Composition, Term of Office -- The school committee shall consist of five members elected to three-year overlapping terms so arranged that the term of two members shall expire each year for each of two years and the term of one member shall expire on the third year.

(B) Powers and Duties -- The school committee shall have all the powers and duties a school committee may have under the Constitution and General Laws of the Commonwealth, and it shall have such additional power and duties as may be authorized by this charter or by by-law. The Planning Board shall be consulted for a written recommendation by the School Committee prior to any action on the use or siting of any town owned property.

3-2-8 Moderator

(A) Term of Office -- A moderator shall be elected for a 3 year term.

(B) Compensation -- The moderator shall receive for his/her services such compensation as may annually be provided for that purpose by appropriation.

(C) Duties -- The moderator shall preside at all sessions of the town meetings, regulate the proceedings, decide all questions of order, make public declaration of all votes and perform such other duties as may from time to time be assigned to the office through by-law or vote of the town meeting or by this charter.

In addition thereto he/she shall have the duties set forth in ch. 39, Sec. 15 of the General Laws.

(D) Temporary Absence -- The town meeting may at any session elect a moderator pro tempore to preside in the moderator's absence or if and when he/she declines to preside.

3-2-9 **Town Clerk**

(A) Term of Office -- The town clerk shall be elected for a term of three years. He/she shall receive for his/her service such compensation as may annually be provided for that purpose by appropriations.

(B) Powers and Duties -- The town clerk shall have the power and duties as set forth in the applicable provisions of the General Laws and such additional power and duties as may be authorized by this charter or by by-law.

(C) By-Laws -- All town by-laws shall be filed with the town clerk. The town clerk shall publish, and make available, at reasonable cost, copies of the by-laws and this charter to all persons requesting them.

3-2-10 **Housing Authority**

There shall be a Housing Authority, four members of which shall be elected and one member appointed by the Governor of the Commonwealth which shall have the power and duties as set forth in the pertinent sections of the General Laws, as may be accepted by the town meeting.

3-3 **Vacancies**

Should a vacancy occur in any elected office, board, commission or committee, such vacancy shall be filled in accordance with the appropriate provisions of the General Laws (Selectmen c41 S10; Moderator c39 S14; Town Clerk 41 S14; all other boards and commissions c41 S11).

No vacancy shall be filled until 14 days after public notice of such vacancy.

ARTICLE 4

APPOINTED TOWN OFFICIALS, BOARDS, COMMISSIONS AND COMMITTEES

4-1 **Duties, Terms, etc.**

4-1-1 **Town Administrator**

(A) Qualifications - The qualifications of Town Administrator shall be established by personnel By-Law.

(B) Term - The Board of Selectmen, by a majority vote of its full membership, shall appoint a Town Administrator for an initial term of three years and at its discretion for successive terms thereafter which will not exceed three years each and shall fix his/her compensation within limits of an appropriation made for that purpose.

(C) Personnel By-Laws - Except as provided herein, the office shall not be subject to any personnel by-law of the Town.

(D) Residential Requirements - The Town Administrator need not be a resident of the town or Commonwealth.

(E) Other Offices - He/she shall devote full time to the office and shall not hold any other public office, elective or appointive except as provided herein. He/she shall not engage in any other business or occupation during his term, unless such action is approved in writing by the board of selectmen.

(F) Powers and Duties General - Except as otherwise authorized, the town administrator will report to the selectmen's office every business day, and will be engaged in such varied activities as the following: preparing the agenda for each weekly meeting of the board; handling all

correspondence for the selectmen; receiving and carrying out decisions and instructions from them; coordinating the work of the several departments under the jurisdiction of the selectmen with other town departments and with state, county, or private agencies; providing the board with factual information upon which they make decisions and formulate policies; and receiving and adjusting complaints or making referrals to the proper governmental or private agency. The town administrator shall attend all town meetings.

(G) Powers and Duties -- Specific

The Town Administrator duties shall include but not be limited to:

- 1) Administer the personnel by-law as voted by the town and as may be determined by collective bargaining agreements.
- 2) Maintain a full and complete inventory of the town's property both real and personal.
- 3) Supervise and maintain a central purchasing department.
- 4) Shall be an ex-officio non-voting member of all elected and appointed boards and commissions and committees.
- 5) Shall keep informed and report to the selectmen on developments in municipal administration, grants etc. at both the state and federal level.

(H) Vacancy - Shall be filled as soon as reasonably possible. Temporary appointment for a period of no longer than four months may be made by selectmen in the absence of a fully qualified individual.

(I) Removal.-As provided in Section 8-2 of this charter.

4-1-2 **Facilities Manager**

(A) The Board of Selectmen, by a majority vote of its full membership, in consultation with the Superintendent of Schools and Town Administrator, shall appoint a Facilities Manager for an initial term of three years and at its discretion for successive terms thereafter each of which shall not exceed three (3) years and shall fix compensation within limits of an appropriation made for that purpose.

(B) The Facilities Manager will be accountable to the Superintendent of Schools for school operated buildings and to the Town Administrator for all other Town owned buildings, in consultation with the Engineering Department as required, excluding the waste treatment building(s) and water department infrastructure buildings and shall have a budget appropriate to his/her responsibilities and duties.

(C) Duties - The Facilities Manager shall prepare an inventory of all town owned buildings and facilities, assess their conditions and needs, and prepare a long-term plan for the preventive maintenance and improvement of town buildings within the purview of this position.

1) The Facilities Manager shall implement and manage all programs that ensure the proper operation and maintenance of town buildings and systems therein and oversee other work that may be required. He/she shall arrange for annual contracts related to maintenance of town facilities and be a procurement coordinator for supplies necessary to the performance of the position.

2) In addition, the Facilities Manager shall be involved ex-officio on all capital building projects and shall consult with the Engineering Department and Building Department as needed.

4-1-3 **Legal Counsel**

(A) Term of Office - The Town Counsel shall be appointed by the Board of Selectmen for a

term of one year, said term to commence on July 1 of each year, except where a vacancy exists, in which case the appointee shall complete the remainder of the current term. "Town Counsel" as used in this Charter, may refer to an individual or a law firm hired by the Selectmen to provide legal services to the Town. Town Counsel may serve on either a full time or part time basis, in the discretion of the appointing authority, subject to the amount of compensation appropriated for that purpose by the Town.

(B) Duties – The Town Counsel shall:

- 1) Be the legal counsel for the Town in its corporate capacity.
- 2) Provide legal consultation and advice to all boards, officers and employees of the Town, as may be authorized by the Board of Selectmen or its designee.
- 3) Review all Town Meeting Warrant Articles prior to each Town Meeting and advise the Board of Selectmen and relevant town boards, officers and employees regarding the legality of such articles.
- 4) Attend all Annual and Special Town Meetings, and provide such legal consultation and advice as may be requested by Town Meeting.
- 5) Conduct or oversee all litigation, including administrative proceedings, in which the Town, its boards or officers are involved in their official capacity, to the extent such legal services are not provided by the town's insurance carriers.
- 6) Review and approve as to form all contracts to which the Town is a party.

4-1-4 **Treasurer/Collector**

There shall be a Treasurer/Collector appointed by the Board of Selectmen for a term of three (3) years.

4-2 **Vacancy**

Should a vacancy occur in any office, board or commission, such vacancy shall be filled in accordance with the appropriate provisions of the General Laws. Vacancies on Committees or Study Groups may be filled by the appointing authority. No vacancy shall be filled until 14 days after public notice of vacancy.

ARTICLE 5

FINANCES AND FISCAL PROCEDURES

5-1 **Fiscal Year**

The fiscal year of the town shall be as required by the General Laws.

5-2 **Submission of Budget and Budget Message**

On or before the last Monday of January, the selectmen assisted by the Town Administrator shall file with the advisory board a proposed budget for the ensuing fiscal year with an accompanying budget message and supporting documents.

5-3 **Budget Message**

The message of the selectmen shall explain the budget for all town agencies, both in fiscal terms and in terms of work programs. It shall outline proposed financial policies of the town for the ensuing fiscal year, describe important features of the budget including capital expenditures, indicate any major

variations from the current year in financial policies, expenditures and revenues together with reasons for such changes, summarize the town's debt position and include other material as the selectmen may require.

5-4 The Budget

The budget shall provide a complete financial plan of all town funds and activities, including Enterprise Accounts and the budget adopted by the school committee for the ensuing fiscal year. Except for the school budget or as may otherwise be required by statute or by this charter, it shall be in the form which the selectmen may require. In their presentation of the budget the selectmen shall utilize modern concepts of fiscal presentation, so as to furnish maximum information and provide the best financial control. The budget shall show in detail all estimated income from the proposed property tax levy and other sources and all proposed expenditures, including debt service for the following year. The budget shall be arranged to show the actual and estimated income and expenditures for the previous, current and ensuing fiscal years and shall indicate in separate sections:

(A) Proposed expenditures for current operations during the ensuing fiscal year, detailed by agency and position in terms of work programs, and the method of financing such expenditures;

(B) Proposed capital expenditures during the ensuing fiscal year, detailed by town agency, and the proposed method of financing each such capital expenditure; and

(C) Estimated surplus revenue and free cash at the end of the current fiscal year, including estimated balances in any special accounts established for specific purposes.

5-5 Action on the budget

(A) The board of selectmen and the advisory board shall jointly hold one or more public hearings on the proposed budget not less than fourteen (14) days prior to the town meeting at which it is to be submitted for adoption.

5-6 Capital Improvement Program

Town officers, board and committees shall, by the third Friday in November of each year, submit to the Capital Budget Committee all requests for capital projects and all information concerning such projects proposed to be undertaken in the next fiscal year. In addition, no later than the third Friday in November of each year, all town officers, boards and committees shall submit to the Capital Budget Committee a capital budget plan listing all capital projects then in effect and anticipated in the following five (5) fiscal years. Capital projects for consideration at a Special Town Meeting should be of an emergency nature only and shall be submitted to the Capital Budget Committee sixty (60) days prior to the date of a Special Town Meeting. The Capital Budget Committee will review all current project requests and five year capital budget plans and:

(A) Develop a capital budget article to be presented to the next Annual Town Meeting or Special Town Meeting with recommendations; and

(B) Incorporate all capital budget plans into an overall town capital budget program. The capital improvement program is to be developed and administered in accordance with the capital budget bylaws.

5-7 Financial Public Records

A summary of the budget and capital improvements program and related warrant articles as

adopted by the town meeting shall be prepared by the Town Administrator under the direction of the Selectmen and made available at the offices of both the Town Clerk and Selectmen for examination by the public not more than thirty (30) days after their adoption. These provisions shall not affect the availability of the annual town report, the town warrant or the report of the advisory board.

ARTICLE 6 GENERAL ORGANIZATION

6-1 General

(A) Subject to the Massachusetts General Laws and the provisions of this charter, the town meeting may by by-law create, establish, organize, reorganize, consolidate or abolish any town board, commission, committee, department, office or agency in whole or in part as they deem necessary or advisable and shall prescribe the function of all such entities.

(B) All appointments and promotion of town officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence and suitability.

(C) No board, commission, committee or study group shall be appointed until the appointing authority clearly sets forth the objectives, duties, authority and term of such body, unless such information is contained in the legislation establishing such body. The foregoing shall not apply to such bodies existing at the adoption of this charter, but the appointing authority shall give such guidance and direction as any such existing body may reasonable request.

6-2 Contracts

All contracts involving the Town, whether or not requiring expenditure of funds, shall be reviewed by Town Counsel for form and content.

ARTICLE 7 PROCEDURES

7-1 Meetings General

All multiple member boards, commissions or committees of the town whether elected or appointed or otherwise constituted, shall meet within 30 days of appointment and regularly at such times and places within the town as they may prescribe. Special meetings of any board, commission, or committee shall be held on the call of the respective chairman or by one third of the members thereof by suitable written notice delivered to the residence or place of business of each member at least twenty-four hours in advance of the time set. A copy of the said notice shall also be posted on the town bulletin board(s). Special meetings of any board, commission, or committee shall also be called within two (2) weeks after the date of the filing with the town clerk of a petition signed by at least twenty-five (25) registered voters and which states the purpose or purposes for which the meeting is to be called. All meetings of all boards, commissions and committees shall be open and public, provided, however, that the committee, commission or board may recess for the purpose of discussing in a closed or executive session limited to its own membership, any matter which would tend to defame or prejudice the character or reputation of any person, which would affect the public security, or which might have a direct fiscal effect on the town provided that the general subject matter for consideration is expressed in the motion calling for such session and that final action on the matter is not taken until

the board, commission or committee comes back into formal session, except as provided in Sec.23A, ch.39 of the General Laws.

7-2 Agendas

At least twenty-four hours before any meeting of a board, commission or committee is to be held an agenda containing all items which are scheduled to come before the board, commission or committee at the meeting shall be posted on the town bulletin board(s). No action taken on a matter not included in the posted agenda shall be effective unless the board, commission or committee first adopts by a separate vote a resolution declaring that a reasonable cause exists and stating such cause.

7-3 Rules and Journal

Each board, commission or committee shall determine their own rules and order of business unless otherwise provided by this charter or by-law and shall provide for keeping a journal of their proceedings. Those rules and journals shall be a public record kept available in a place convenient to the public at all times and certified copies shall be kept available in the office of the town clerk.

7-4 Voting

Except on procedural matters, votes of all boards, commissions, committees shall be taken by a call of the ayes and nays shall be recorded in the journal, provided however, that if the vote is unanimous only that fact need be recorded.

7-5 Quorum

A majority of the members of the board, commission or committee shall constitute a quorum, but a lesser number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the board, committee or commission; no other action of the board, commission or committee shall be valid or binding unless ratified by the affirmative vote of the majority of the full board, commission or committee.

ARTICLE 8

RECALL AND REMOVAL

8-1 Recall

8-1-1 Who can be recalled -- Any holder of an elective office, as defined in Article 3, may be recalled therefrom by the registered voters of the town as herein provided.

8-1-2 Recall Petition

Any one hundred (100) registered voters of the town may file with the Town Clerk an affidavit on documents issued by the Town Clerk containing the name of the officer sought to be recalled and a statement of the grounds for recall. Anyone obtaining the affidavit documents from the Town Clerk, must return the affidavit documents to the Town Clerk within 14 days with the signatures of the one hundred (100) registered voters. The Town Clerk shall thereupon deliver to said voters making the affidavit copies of petition blanks demanding such recall, copies of which shall be kept available. The blanks shall be issued by the Town Clerk with his/her signature and official seal attached thereto. They shall be dated, shall be addressed to the selectmen and shall contain the names of all persons to whom they are issued, the name of the person whose recall is sought, the grounds of recall as stated in

the affidavit, and shall demand the election of a successor in said 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 twenty-one (21) days after the filing of the affidavit, and shall have been signed by at least fifteen (15) per cent of the registered voters of each precinct, who shall add to their signatures the street and number if any, of their residences.

The Town Clerk shall within twenty-four (24) hours of receipt submit the petition to the registrars of voters in the town, and the registrars shall within fourteen (14) days certify thereon the number of signatures which are names of registered voters of the town.

8-1-3 Selectmen's Action on Receiving Petition

If the petition shall be found and certified by the Town Clerk to be sufficient he/she shall submit the same with the certificate to the selectmen without delay, and the selectmen shall forthwith give written notice of the receipt of the certificate to the officer sought to be recalled and shall, if the officer does not resign within five (5) days thereafter, order an election to be held on a date fixed by them not less than sixty (60) nor more than seventy (70) 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 to occur within ninety (90) days after date of the certificate, the selectmen shall postpone the holding of the recall election to the date of such other election. If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in the election.

8-1-4 Nomination of Candidates

Any officer sought to be removed may be a candidate to succeed himself/herself, and unless he/she requests otherwise in writing, the town clerk shall place his/her name on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the removal election, and the conduct of the same, shall all be in accordance with the provisions of law relating to elections, unless otherwise provided in this section.

8-1-5 Incumbent Holds Office until election

The incumbent shall continue to perform the duties of his office until the recall election. If then re-elected, he/she shall continue in office for the remainder of his unexpired term, subject to recall as before, except as provided in this section. If not re-elected in the recall election, he shall be deemed removed upon the qualification of his successor, who shall hold office during the unexpired term. If the successor fails to qualify within five (5) days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant.

8-2 **Removals and Suspensions**

8-2-1 Applicability -- Any appointed officer, including a member of any appointed board, commission, committee, or any appointed salaried employee of the town, not subject to the provisions of the state civil service law, and whose position is not subject to any collective bargaining agreement between the town and its employees, whether appointed for a fixed or an indefinite term, may be suspended or removed from office by the appointing authority for good cause. The term cause shall include, but not be limited to the following: Incapacity other than temporary illness, inefficiency, absenteeism, insubordination and conduct unbecoming the office.

8-2-2 Temporary Suspension -- Any appointed officer or salaried employee of the town may be

suspended from office by the appointing authority if such action is deemed by them to be necessary to protect the interests of the town. However, no suspension shall be for more than thirty (30) days. Suspension may be coterminous with removal and shall not interfere with the rights of the officer or employee under the removal procedure given below.

8-2-3 The appointing authority when removing any such officer or employee shall act in accordance with the following procedure:

(A) The employee shall be served with a written notice to show cause why the employee should not be removed and a statement of the cause or causes therefore shall be delivered by registered or certified mail to the last known address of the person sought to be removed.

(B) Within five (5) days of delivery of such notice the officer or employee may request a public hearing at which he/she may be represented by counsel, shall be entitled to present evidence, call witness and to question any witness appearing at the hearing, which hearing shall be held within 15 days of receipt of such notice.

(C) Between one (1) and ten (10) days after the public hearing is adjourned, or if the officer or employee fails to request a public hearing between six (6) and fifteen (15) days after delivery of the notice of intent to remove the appointing authority shall take final action, whether removing the officer or employee or notifying him/her that the notice is rescinded.

8-2-4 Nothing in this section shall be construed as granting a right to such a hearing when a person who has been appointed to a fixed term is not reappointed when his/her original term expires.

ARTICLE 9 GENERAL PROVISIONS

9-1 Charter Changes

This charter may be replaced, revised or amended in accordance with the procedures made available by article 89 of the amendments to the state constitution and any legislation enacted to implement the said amendment.

9-2 Severability

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

9-3 Specific Provisions Shall Prevail

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

9-4 Rules and Regulations

A copy of all rules and regulations adopted by an officer, board, commission, committee, department or agency of the town shall be filed in the office of the town clerk and made available for review by any person who requests such information.

**ARTICLE 10
TRANSITION PROVISION**

10-1 Continuation of Existing Laws

All general laws, special laws, town by-laws, votes, rules and regulations of or pertaining to the town which are in force when this charter takes effect and which are not specifically repealed or amended or rescinded by due course of law or expire by their own limitation.

10-2 Continuation of Government

All committees, commissions, boards, departments, officers and other agencies of the town shall continue to perform their duties until reappointed, re-elected, or until successors to their respective positions are duly appointed or elected or their duties have been transferred.

10-3 Continuation of Administrative Personnel

Any person holding an office or position in the administrative services of the town, or any person serving in the employment of the town shall retain such office or position and shall continue to perform his duties until provisions shall have been made in accordance with this charter for the performance of the said duties by another person or agency; provided however, that no person in the permanent full time service or employment of the town shall forfeit his pay grade or time in service. All such persons shall be retained in a capacity as similar to their former capacity as it is practical so to do.

10-4 Transfer of Records and Property

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

10-5 Adoption of Certain Acts

The provisions of Chapter 41 Section 103 of the General Laws are hereby adopted. Said section establishes a purchasing department authorized to purchase all supplies for the town and for every department thereof.

10-6 Effective Date

This charter shall become effective July 1, 1976.

Respectfully submitted,

Robert V. Cauchon, Chairman
Richard A. Hall, Vice Chairman
John Bangs, Clerk
James A. McLaughlin
John Clifford
Carolyn Jarvis
Dorothy McCann

Thomas Sheehan
Lawrence Callahan

Modified May 3, 2003
2001 Charter Review Committee

Douglas Heald, Chairman
Kathleen Ramsey, Secretary
Otis Carney
Jean Christensen
Roberta Daniele
Dana Harvey
Kevin Jones
Charles Kearney
Ted LeClair
Richard Levin
Martine Anderson
James Robinson (Ex-Officio Member)
Robert Marzelli (Ex-Officio Member)