

CHARTER AND BY-LAW REVIEW COMMITTEE MEETING

July 8th, 2009 revised 121309

The Charter and By-law Review Committee (CBRC) held a meeting on July 8th, 2009 at 5:30 p.m. in the School Committee Room, Town Hall. The meeting was duly posted by Carol Gloff, chair. Ms. Gloff called the meeting to order at 5:38 p.m.

Members present: Jay Ball, Barbara Chinetti, Karen Adelman Foster, Carol Gloff, Robert Healey, Richard Sidney

Members absent: Tony Lista

Others present: Frank Foss, Town Moderator
Onorina Maloney, Interim Town Clerk
Martha White, Town Administrator
John Flynn, Town Counsel (arrived at 6:20 p.m.)

Attachments: Consolidated comment documents (documents in which previous CBRC comments and questions have been consolidated by Ms. Gloff):

Consolidated comments on the Charter

1. ART-2 CBRC Comments
2. ART-3 CBRC Comments
3. ART-7 CBRC Comments

Consolidated comments on the By-Laws

4. ART-1 CBRC Comments
5. ART-2 CBRC Comments
6. ART-3 CBRC Comments
7. ART-11 CBRC Comments
8. ART-28 CBRC Comments
9. ART-40 CBRC Comments
10. Email from John P. Flynn, Town Counsel, to Carol Gloff, dated July 8, 2009, 3:48 p.m., Subject: Charter, Article 2
11. Email from John P. Flynn, Town Counsel, to Carol Gloff, dated July 8, 2009, 4:03 p.m., Subject: Charter, Article 3
12. Email from John P. Flynn, Town Counsel, to Carol Gloff, dated July 8, 2009, 4:15 p.m., Subject: Charter, Article 7
13. Email from John P. Flynn, Town Counsel, to Carol Gloff, dated July 8, 2009, 4:22 p.m., Subject: By-Laws, Article 1
14. Email from John P. Flynn, Town Counsel, to Carol Gloff, dated July 8, 2009, 4:29 p.m., Subject: By-Laws, Article 2
15. Email from John P. Flynn, Town Counsel, to Carol Gloff, dated July 8, 2009, 4:33 p.m., Subject: By-Laws, Article 3

16. Email from John P. Flynn, Town Counsel, to Carol Gloff, dated July 8, 2009, 4:37 p.m., Subject: By-Laws, Article 11
17. Email from John P. Flynn, Town Counsel, to Carol Gloff, dated July 8, 2009, 4:45 p.m., Subject: By-Laws, Article 28
18. Email from John P. Flynn, Town Counsel, to Carol Gloff, dated July 8, 2009, 4:48 p.m., Subject: By-Laws, Article 40

[Note: Comments and questions from previous CBRC meetings were compiled by the chair in consolidated comment documents. These documents (listed above as attachments) were used in the meeting, as were emails from town counsel to the chair (also listed above as attachments). Specific comments on the consolidated comment documents enumerated as CG1, CG2, etc, are referred to in this way in these minutes. Specific comments on the emails from Town Counsel are enumerated as 1, 2, 3, etc, and are here referred to as JF1, JF2, JF3, etc.]

[Note: Where a CBRC motion or vote reads “to change,” the committee is aware that we are voting only to propose a change to Town Meeting.]

DISCUSSION OF CHARTER

Article 1 No comments were made and the committee determined it best to take no action.

Article 2 (*See Attachments 1 & 10*)

- Sect 1, CG1, JF1: In accordance with Town Counsel’s recommendation, the committee decided no action was necessary.
- Sect 3, CG2, JF2: There was confusion regarding Town Counsel’s comment. Ms. Gloff will consult with Town Counsel and the committee will reconsider the issue in question. (See below for action taken later in the meeting.)
- Sect 3, CG3, JF3: There was a short discussion regarding whether precincts need revision now. The committee decided no action was necessary.
- Sect 4(b), CG4, JF4: There was a discussion regarding the desirability of requiring that Town Meeting members live in the districts they represent. Consensus was reached no action was necessary.
- Sect 6(b), CG5, JF5: After discussion, the committee decided no action was necessary.
- Sect 6(c) Ms. Gloff will check with the original article voted by Town Meeting to determine whether the extra period may be removed as a typo without a vote.
- Sect 6(d) CG6, JF6: Action as above.

- Sect 6(d) Action as above regarding changing the final comma to a period.
- Sect 10(c) The committee decided no action was necessary.
- Sect 10(a) Ms. Chinetti asked whether this provision is followed. It was decided that the committee would consult Town Counsel on this matter.

Mr. John Flynn, Town Counsel, arrived at 6:20 p.m.

- Sect 3, CG2, JF2 The committee asked Mr. Flynn to clarify his comments.

**Mr. Sidney moved that the word “and” be changed to “or.”
Mr. Healey seconded, and the motion passed unanimously.**

- Sect 10(a) Discussion returned to whether it is indeed required that every town agency send a representative to Town Meeting and if so, whether they do so. It was determined that yes, it was necessary for every town agency to send a representative, but that they did not. It was also determined that rectifying this problem could be achieved by informing agencies of the duty, and of the fact that the designated representative need not be part of the agency. Ms. White and Ms. Maloney agreed to do so.
- Sect 11(a) CG8, JF8 The committee decided to take no action on this item.
- Sect 11(b) CG9, JF9 Discussion was held as to whether this section was being adhered to. Ms. White said she would henceforth ensure it is.
- Sect 11d, CG10 JF10 The committee, on advice of counsel, declined to take action on the word “mailed.” The question was raised as to whether the requirement to “mail” could be fulfilled by emailing. Mr. Flynn said it could not. Was the Board of Selectmen required to vote on and sign the warrant before it was posted? Mr. Flynn said it was. The question was raised as to whether the five-day deadline should be lengthened, and whether the town should replace this section with MGL language, allowing Town Meeting warrants and election warrants to be posted at the same time. Ms. White, Ms. Maloney, and Mr. Ball will propose a possible change at a future CBRC meeting.
- Sect 12c, CG11 JF11 The committee determined no action was necessary.
- Sect 13a, CG12 JF12 The committee determined no action was necessary.
- Sect 13b, CG13 JF13 Town Counsel’s opinion was that no vote of Town Meeting was necessary to delete the extra space after the word “amendments,” and the CBRC did so.
- Sect 13c, CG14 JF14 Discussion took place after Ms. White raised the point that it is difficult to meet the requirements of this section within its deadlines.

Ms. Gloff moved that the word “fourteen” be changed to “thirty” and that the word “twenty-one” be changed to “sixty,” so the sentence would read “The board of selectmen shall, within ten days following the filing of such petition, call a special election to be held on a date fixed by it not less than thirty nor more than

sixty days later for submission of such question, or questions, to the voters for a final determination.” Mr. Sidney seconded, and the motion carried unanimously.

Sect 13d, CG15JF15 The committee decided to take no action on this section.

Article 3 (*See Attachments 2 & 11*)

Sect 1b, CG1 JF1 The committee determined no action was necessary.

Sect 1d1, CG2 JF2 The committee determined no action was necessary.

Sect 1d5, CG3 JF3 The committee determined no action was necessary.

Sect 1d6, CG4 JF4 The committee determined no action was necessary.

Sect 1g1, CG5 JF5 Ms. Gloff will research whether this misspelling is in the original documents.

Sect 1g2, CG6 JF6 The committee determined no action was necessary.

Sect 1g3, CG7 JF7 The committee determined no action was necessary.

Sect 1h2, CG8 JF8 The committee determined no action was necessary.

Sect 1h2, CG9 JF9 The committee determined no action was necessary.

Sect 1h2, CG10JF10 The committee determined no action was necessary.

Sect 3-2c, CG11JF11 The committee determined no action was necessary.

Sect 3-2c, CG12JF12 The committee determined no action was necessary.

Sect 2-2d, CG13 JF13The committee determined no action was necessary.

Sect 3-3bi The committee determined no action was necessary.

Sect 3-6b The committee determined no action was necessary.

Sect 3-7b, CG15JF15 The committee determined no action was necessary.

Sect 3-1a6 Ms. Gloff communicated a question from Dr. Joseph Keefe, Chair of the Morse Institute Library Board of Trustees regarding whether it was permissible for the Board of Trustees to be elected in non-staggered terms. The committee determined no action was necessary.

Sect 3-14a,
CG16JF16 The committee determined no action was necessary.

Sect 3-14a Mr. Healey asked whether there are any additional elected officials who should be added to this article. Ms. Maloney said she would research the matter.

Article 7 (See Attachments 3 & 12)

- Sect 4 CG1 JF1 Ms. White and Ms. Maloney will ensure this is done. The committee decided no action was necessary.
- Sect 5 general In view of the multiplicity of instances in which the masculine pronoun is used in the Charter and By-Laws, in view of the attendant grammatical changes that would be necessary to change those pronouns, and in view of the universal definition made in this section, there was consensus that the CBRC will not propose changes throughout the Charter and By-Laws to achieve gender neutrality.
- Sect 5CG2JF2 The committee determined no action was necessary.
- Sect 6(a) CG3JF3 The committee determined it would take no action to propose an ongoing Charter and By-Law Review Committee. Discussion in coming to that consensus touched on the variety of means available to change the Charter and By-Laws without a CBRC, the desirability of periodic review, the desirability of cooling down periods for such important decisions.
- Sect 7(k) CG4JF4 The committee determined no action was necessary.
- Sect 8CG5, JF5 The committee determined no action was necessary.
- Sect 9b CG6 JF6 The committee determined no action was necessary.
- Sect 11 CG7JF7 The committee took no action.
- General: The committee discussed whether missing meetings is a sufficient reason for to be removed as an appointee, and concluded that it was.

DISCUSSION OF BY-LAWS

Article 1 (See Attachments 4 & 13)

- Sect 2-11(c), CG1 JF1 The committee determined no action was necessary.
- Sect 3, CG2 JF2 The committee determined no action was necessary.
- Sect 4, CG3, JF3 The committee determined no action was necessary.
- Sect 5 The committee determined no action was necessary.

Article 2 (See Attachments 5 & 14)

- Sect 1, CG1 JF1 The committee determined no action was necessary.
- Sect 1, CG2 JF2 The committee determined no action was necessary.
- Sect 1, CG3 JF3 The committee determined no action was necessary.

Article 3 (See Attachments 6 & 15)

- Sect 1 CG1 JF1 The committee determined no action was necessary.
- Sect 4 CG2 JF2 Mr. Foss and Ms. Adelman Foster will propose new language that allows for electronic voting.
- Sect 4 CG3 JF2 This was not addressed during the meeting.
- Sect 10 CG4 JF4 **Mr. Sidney moved that the words “at the meeting” be deleted.
Ms. Adelman Foster seconded the motion, and it carried unanimously.**
- Sect10, CG5 JF5 The committee determined no action was necessary.
- Sect 11, CG6 JF6 The committee determined this was best done as a footnote to the Precedence of Motions table as below.
- Sect 11, Table CG7 JF7
**Mr. Sidney moved that a footnote be added to “Adjourn to a fixed time or recess,” and that the footnote should read as follows: “See By-Law Article 1, Section 3.”
Ms. Chinetti seconded the motion, and it passed unanimously.**
- Ms Adelman Foster moved that a new motion, “Take no action” be inserted after “Postpone indefinitely,” that the new motion should require a second, be debatable, not be amendable, and require a majority vote.
Mr. Sidney seconded the motion, and it carried unanimously.**

Article 11 (See Attachments 7 & 16)

- Sect 1 CG1 JF1 Ms. Maloney and Ms. White will ensure that this section is complied with.
- Sect 1 CG2 JF2 There was discussion regarding whether the Town Clerk should be the keeper of final minutes, and a conclusion that this might be better addressed in Article 40 of the By-Laws.
- Sect 2 The question was asked whether this section is complied with; the answer was that it is not. Ms. Gloff and Mr. Flynn will work on replacement language.
- Sect 5 CG3 JF3 Ms. Gloff will research whether the extraneous comma is in the original.
- Sect 7, CG4 JF4 The committee determined no action was necessary.
- Sect 8, CG5 JF5 The committee determined no action was necessary.
- Sect 10 It was asked whether this section is being complied with. Ms. Maloney will ensure that it is.

Sect 11 CG6 JF6 The town is not at risk if the word "require" is left as it is. The committee determined no action was necessary.

Articles 28 and 40 will be addressed at a future meeting.

CONCLUSION AND ADJOURNMENT

The committee will cancel its meeting on Thursday, July 9nd at 7:00 am, and post a sign on the Town Hall door accordingly. It will meet next on July 15th at 5:30 pm.

Adjournment was moved by Mr. Healey and seconded by Mr. Sidney. Ms. Gloff adjourned the meeting at 9:42 p.m.

Respectfully submitted by Karen Adelman Foster, CBRC member

Minutes approved on December 14, 2009 by a vote of 4-0-0.

ARTICLE 2

LEGISLATIVE BRANCH

Section 2-1 Representative Town Meeting

There shall **continue to be** a representative form of town meeting limited to those voters who are elected to meet, deliberate, act and vote in the exercise of the legislative powers of the town.

Comment [CG1]: Are the words "continue to" necessary in this sentence?

Section 2-2 Composition, Term of Office

The representative town meeting shall consist of one hundred and eighty members elected for terms of three years each, so arranged that the terms of one-third of the members shall expire each year.

Section 2-3 Precincts

The board of selectmen shall divide the town into convenient voting precincts in accordance with, but not limited to, Sections 6, 7, and 8 of Chapter 54 of the General Laws.

The boundaries of the precincts shall be reviewed and wholly or partly revised by the board of selectmen (a) at least once in every ten years, (b) whenever it is directed to do so by a vote of the town meeting, **and (c) whenever it is apparent from the street list, census data or other official information that the number of inhabitants in any one precinct varies by five per cent or more from the total number of inhabitants of the town divided by the number of precincts.** Any such revision shall be carried out in accordance with the timeline described in said Section 6 of Chapter 54 of the General Laws.

Comment [CG2]: Should this be "and" or should it be "or"?

Comment [CG3]: One member suggested that the town needs to see if precincts need to be revised now, before the next census.

Section 2-4 Candidates

(a) **Eligibility** - Any voter shall be eligible to be a candidate, to be elected and to serve as a town meeting member.

(b) **Nomination Procedure** - **Nomination of candidates for the office of town meeting member shall be made by nomination papers signed by not less than ten voters resident in the precinct from which the candidate seeks to be elected.** Nomination papers shall be filed with the town clerk at least thirty-five days preceding the date of the town election. Every nomination paper shall be submitted to the registrars of voters for certification of the names thereon on or before five o'clock in the afternoon of the fourteenth day preceding the day on which it shall be filed with the town clerk. The written acceptance of the candidate shall be on or attached to the nomination papers when filed in order for it to be valid.

Comment [CG4]: This does not seem to require that the person running for town meeting actually reside in the precinct in which s/he is running. John, is the requirement for the candidate to live in the precinct defined in state law or someplace, or are we just missing it here?

Section 2-5 Election

The voters in each precinct shall, at the first town election held following any revision of precincts which affect them, elect by ballot all of its town meeting members. The first third in order of votes received shall serve for three years; the second third in such order shall serve for two years; and the remaining third in such order shall serve for one year from the date of the annual election and until their successors are chosen and qualified. Thereafter, except as otherwise provided, at each succeeding annual election the voters of each precinct shall elect for three-year terms one-third of its town meeting members, and shall fill for the unexpired terms any vacancies then existing. In case of a tie vote affecting the determination of which candidates are elected or affecting a division into thirds, the

town clerk shall conduct a lottery among those tied. Any such lottery shall be conducted at a time and place open to the public.

Section 2-6 Vacancies

(a) **Resignation** - A town meeting member may resign by filing a written resignation with the town clerk; such resignation shall take effect upon the date of such filing unless a date certain is specified in the letter of resignation when it shall otherwise take effect.

(b) **Removal From Town or Precinct** - A town meeting member who removes from the town shall forthwith cease to be a town meeting member. A town meeting member who removes from one precinct in the town to another, or who is so removed by a revision of precinct lines, may continue to serve as a town meeting member from the precinct from which he was elected until the next town election at which the remainder of his term, if any, shall be filled by the voters. Any person so removed from office may be a candidate for election as a town meeting member from the precinct to which he has removed at the same election.

Comment [CG5]: The CBRC had some discussion about removal of a town meeting member if s/he missed a certain number or percentage of town meeting sessions. I think we decided we could not/would not do this, but I would like a legal opinion on this anyway.

(c) **List of Persons Eligible to Fill Vacancies** - Following each town election, the town clerk shall prepare for each precinct a list of persons who received votes for town meeting member, but who were not elected. Each list shall include names of such persons for elections in the present and previous two calendar years, provided, however, that elections in years prior to the last revision of precincts shall not be considered. Persons shall be listed at most once, with the highest vote count received. Persons currently serving as elected town meeting members or those no longer eligible to be town meeting members from the precinct shall not be listed. Persons on each list shall be listed in descending order of votes received. If necessary to resolve ties, the town clerk shall determine the ordering on each list by a lottery among those tied. Any such lottery shall be conducted at a time and place open to the public. The town clerk shall maintain the lists until the next town election, removing from the lists the names of persons (1) who are appointed to fill vacancies, (2) who choose not to accept appointment when offered, or (3) who are no longer eligible to be town meeting members.

(d) **Filling of Vacancies** - Whenever a vacancy has been declared to exist either (1) by a letter of resignation filed with the town clerk, or (2) by the issuance of a certificate from the town clerk that such person has died or has removed from the town, or has failed to take the oath of office, such vacancy shall be filled until the next town election from the list of persons eligible to fill vacancies in the precinct. The town clerk shall make appointments in accordance with the ordering of names on the lists. In the event there are no persons eligible, the vacancy shall remain unfilled until the next town election.

Comment [CG6]: John, we think the comma after "event" needs to be deleted. Would this require a vote? We think it is just a typo.

Section 2-7 Compensation

Representative town meeting members shall receive no salary for their services as members of the town legislative body.

Section 2-8 Presiding Officer

A town moderator, chosen as provided in Section 3-10, shall preside at all sessions of the town meeting. The moderator shall regulate the proceedings, decide all questions of order, make public declarations of all votes and may, in open session, administer the oath to any town officer.

Section 2-9 General Powers

All powers of the town shall be vested in the representative town meeting, except as otherwise provided by law or the charter. The town meeting shall provide for the exercise of all powers of the town and for the performance of all duties and obligations imposed upon the town.

Section 2-10 Participation by Non-Town Meeting Members

(a) **Representatives of Town Agencies** - A designated representative of each town agency shall attend all sessions of the representative town meeting for the purpose of providing the town meeting members with information pertinent to warrant articles concerning such agencies. If any such person is deterred by illness or other reasonable cause from attending, he shall designate a deputy to attend in his place. All representatives of town agencies, including any who may not be town residents, shall, during the consideration of articles affecting said agencies, have the same right to speak as a town meeting member, but shall have no right to make motions, or to vote.

(b) **Town Officers and Employees** - Any town officer or town employee, whether a town resident or not, who has information pertinent to the subject matter of any warrant article shall be entitled to speak, but shall have no right to make motions, or to vote.

(c) **Residents and Taxpayers** - Any resident or taxpayer of the town may attend the sessions of the town meeting and, subject to such rules as may from time to time be adopted, shall have a right to participate in the proceedings, but shall have no right to vote.

Comment [CG7]: We think there needs to be a comma after "adopted". Would adding a comma here necessitate a vote?

Section 2-11 Town Meeting Warrants

(a) **In General** - Every town meeting shall be called by a warrant issued by the board of selectmen that shall state the time and place of the meeting and, by separate articles, the subjects which are to be acted upon.

Comment [CG8]: "Which" is grammatically incorrect; it should be "that." Would this require a vote?

(b) **Initiation of Articles** - The board of selectmen shall receive all petitions which are addressed to it and which request the submission of particular subject matter to the representative town meeting and which are filed by: (1) any elected town officer, (2) any multiple member body, acting by a majority of its members, (3) any ten voters, (4) such other persons or agencies as may be authorized by law, or by by-law. All such requests for submission of matters shall be in writing, but they shall not be required to conform to any particular style or form. The board of selectmen shall within fourteen days of receipt of a proposed zoning by-law amendment submit the same to the planning board for review.

Comment [CG9]: John, we need to discuss with Martha White the actual procedure that is being used with zoning by-laws to see if this charter requirement matches it.

(c) **Time Requirements** - The board of selectmen shall place on the warrant for spring and fall town meetings the subject matter of all petitions which are received by it, in accordance with the provisions of this section, sixty or more days before the date, fixed by by-law, on which the representative town meeting is scheduled to meet. Whenever the board of selectmen shall determine it to be necessary to call a special town meeting, it shall by publication in a local newspaper give public notice of its intention. All requests for the inclusion of subjects, as provided above, which are received in the office of the board of selectmen prior to five o'clock in the afternoon of the second business day following such publication, or such longer period as may be authorized by a by-law adopted to further implement this provision, shall be included in the warrant for the said special town meeting.

(d) **Publication** - Within five days following the date the warrant for any town meeting shall close the board of selectmen shall cause copies of the warrant articles for such meeting to be posted in each precinct of the town and copies of said warrant articles to be mailed to the town moderator, the chairman of the finance committee, and to such other persons as may be designated by by-law. Additional copies of the warrant articles shall be made available for general distribution in the office of the town clerk.

Comment [CG10]: We are not certain they are being "mailed". What do you think of the word "provided"? (We know this would be real change.)

(e) **Committees** - The representative town meeting may, by by-law, provide for the establishment of standing committees to which shall be referred the subject matter of warrant articles for study, review and report in advance of town meeting action. Such committees may consist wholly of persons elected as town meeting members or of a combination of elected town meeting members and voters.

Section 2-12 Proceedings of Town Meetings

(a) **Time of Meetings** - The representative town meeting shall meet at least twice in each calendar year. The first such meeting shall be held during February, March, April, or May, on a date fixed by by-law, and shall be primarily concerned with the determination of matters involving the expenditure and commitment of town funds, including but not limited to the adoption of an annual operating budget for all town agencies and which shall be deemed to be the annual meeting of the town. The second such meeting, the powers of which shall also be deemed to be those of an annual meeting, except that it shall not be construed to include the time for election of town officers and of other matters to be determined by ballots, shall be held during the last four calendar months, on a date fixed by by-law. In addition to these meetings, the board of selectmen may, in their sole discretion, for the purpose of acting on the legislative business of the town in an orderly and expeditious manner, call the representative town meeting into session at other times by the issuance of warrants for that purpose.

(b) **Open Meeting** - All sessions of the representative town meeting shall at all times be open and public.

(c) **Quorum** - Ninety-one town meeting members shall constitute a quorum for the transaction of all business to come before the town meeting, but a lesser number may meet and adjourn from time to time, but no town meeting shall adjourn over the date of an election for town meeting members.

Comment [CG11]: What does "but a lesser number may meet and adjourn from time to time"?

(d) **Clerk of the Meeting** - The town clerk or his designee shall serve as the clerk of the representative town meeting. The clerk shall give notice of all meetings to the town meeting members and to the public, keep the journal of its proceedings and perform such other functions as may be provided by the charter, by by-law or by other town meeting vote.

(e) **Meetings of Multiple Member Bodies During Town Meeting** - No multiple member body of the town shall schedule a meeting to be held during the time the town meeting is in session for the transaction of business. This provision shall not be construed as to prohibit an emergency meeting of a multiple member body held in the same building in which the town meeting is in session.

Section 2-13 Referendum Procedure

(a) **Effective Date of Final Votes** - No final vote of the representative town meeting to approve or reject an affirmative main motion under a warrant article, but not including appropriating money for the payment of notes or bonds of the town and interest thereon coming due, a vote appropriating money in anticipation of taxes or other revenue, or a vote declared by preamble to be an emergency measure, necessary for the immediate preservation of the peace, health, safety or a convenience of the town, shall be operative until the expiration of seven days following the dissolution of the meeting.

Comment [CG12]: John, does this mean that votes about appropriating money are in effect before the expiration of 7 days following the dissolution of town meeting?

(b) **Subsidiary Motions** - The affirmative main motion subject to referendum shall be the final form of the motion as modified by any amendments adopted. Whenever a subsidiary motion to lay upon the table, to refer or to postpone indefinitely is applied to the affirmative main motion and is voted by the representative town meeting, the affirmative main motion shall be deemed to have been rejected.

Comment [CG13]: John, I just deleted an extra space after the word "amendments".

(c) **Petition** - If, within said seven days, a petition signed by not less than five per cent of the total number of voters as of the date of the most recent town election, containing their names and addresses, is filed with the board of

selectmen requesting that any question as voted by the representative town meeting be referred to the voters for a final determination, then, the operation of such vote shall be further suspended pending its determination by the voters as provided in this section. The board of selectmen shall, within ten days following the filing of such petition, call a special election to be held on a date fixed by it not less than fourteen nor more than twenty-one days later for submission of such question, or questions, to the voters for a final determination.

Comment [CG14]: What timeframes does State law require?

(d) **Form of Question** – A question submitted to the voters under this section shall be stated on the ballot in substantially the same language and form in which it was stated when presented to the town meeting members by the moderator, as appears from the records of such meeting, provided, however, the question shall always be stated in the affirmative form.

Comment [CG15]: What does MGL require on this topic?

(e) **Election** - All votes taken on questions so submitted shall be by ballot, and the conduct of such election shall be in accordance with the provisions of other laws relating to elections, generally. The questions so submitted shall be determined by majority vote, provided, however, that no vote which results in a different result than that as voted by the representative town meeting members shall be valid unless at least twenty per cent of the voters participate at such special election.

ARTICLE 3
ELECTED OFFICERS

Section 3-1 In General

(a) **Elective Offices** - The offices to be filled by the voters shall be a board of selectmen, a school committee, a board of assessors, a town clerk, constables, a board of health, Trustees of the Morse Institute, a town moderator, a planning board, and a recreation and parks commission. In addition, members of a housing authority and representatives to such other regional authorities or districts as may be established by law or interlocal agreement may also be filled by the voters.

(b) **Eligibility** - Any voter shall be eligible to hold any elective town office, provided, however, no person shall simultaneously hold more than one elected town office as defined in this section.

Comment [CG16]: John, we just want to make certain that being a town meeting member is not considered to be an elected town office.

(c) **Town Election** - The annual election of town officers and for the determination of all questions to be referred to the voters, shall be held on such date as may from time to time be provided by by-law.

(d) **Preliminary Elections**

(1) **Candidates** - Any person who is qualified to vote in the town of Natick may be a candidate for an elective town office therein and shall be entitled to have his name as such candidate printed on the official ballot to be used at a preliminary election; provided that he shall file nomination papers provided by the town clerk containing twenty-five signatures certified as voters of the town.

Comment [CG17]: John, what does "qualified" mean? Does it mean "registered to vote", a US citizen, something else?

(2) **Date of Preliminary Election** - The preliminary election shall be held twenty-eight days preceding every regular or special town election.

(3) **Elections to be Nonpartisan** - No primary or caucus for the nomination of town officers shall be held. No ballot used at any preliminary, regular or special election in said town shall have printed thereon any party or political designation or mark, and there shall not be appended to the name of any candidate any such political designation or mark.

(4) **Filing of Nomination Papers** - Nomination papers must be filed with the town clerk not later than five o'clock in the afternoon of the thirty-fifth day preceding the preliminary election. Every nomination paper shall be submitted to the registrars of voters for certification of the names thereon or before five o'clock in the afternoon of the fourteenth day preceding the day on which it must be filed with the clerk.

(5) **Determination of the Candidates for Election** - The election officers shall immediately upon the closing of the polls at the preliminary election count the ballots and ascertain the number of votes cast in the several voting places for each candidate, and forthwith make return thereof upon blanks to be furnished, as in regular elections, to the town clerk who shall canvass said returns and shall forthwith determine the result thereof, and post the same in five conspicuous places in the town.

Comment [CG18]: John, why "five conspicuous" places? Is this required by MGL? Who defines the five conspicuous places?

(6) **Number of Candidates to be Chosen** - The two persons receiving at a preliminary election the highest number of votes for nomination for an office shall be the sole candidates for that office whose names may be printed on the official ballot to be used at the regular or special election at which such

office is to be filled, and no acceptance of a nomination at a preliminary election shall be necessary to its validity.

Comment [CG19]: This sentence is very confusing. What is it supposed to mean, and can it be written more clearly?

If two or more persons are to be elected to the same office at such regular or special election, the several persons in number equal to twice the number so to be elected receiving at such preliminary election the highest number of votes for nomination for that office shall be the sole candidates for that office whose names may be printed on the official ballot.

If the preliminary election results in a tie vote among candidates for nomination receiving the lowest number of votes, which, but for said tie vote, would entitle a person receiving the same to have his name printed upon the official ballot for the election, all candidates participating in said tie vote shall have their names printed upon the official ballot, although in consequence there be printed thereon names of candidates to a number exceeding twice the number to be elected.

(7) **Conditions Making Preliminary Election Unnecessary** - If at the expiration of the time for filing nomination papers of candidates to be voted for at any preliminary election not more than twice as many such papers have been filed with the town clerk for an office as there are persons to be elected to such office, the candidates whose nomination papers have thus been filed shall be deemed to have been nominated to said office, and their names shall be voted on for such office at the succeeding regular or special election, as the case may be, and the town clerk shall not print said names upon the ballot to be used at said preliminary election and no other nomination to said office shall be made. If in consequence it shall appear that no names are to be printed upon the official ballot to be used at any preliminary election in the town, no preliminary election shall be held.

(8) **Application of State Laws** - Except as otherwise provided in this charter, the laws of the commonwealth governing town elections, special elections of town officers and special elections in towns shall, so far as applicable, govern such elections in the town of Natick.

(e) **Compensation** - Elected town officers shall receive such compensation for their services as may be appropriated, annually, for such purpose.

(f) **Coordination** - Notwithstanding their election by the voters, the town officers named in this section shall be subject to the call of the board of selectmen or the town administrator, at all reasonable times, for consultation, conference and discussion on any matter relating to their respective offices.

(g) **Filling of Vacancies**

(1) **Town Officer** - If there is a failure to elect, or if a vacancy occurs in any town office, the selectmen shall, in writing, appoint a person to fill such vacancy until the next town election.

If there is a failure to elect or if a vacancy occurs in the office of town moderator, the representative town meeting members, at the next session of any town meeting following such vacancy, by a majority vote of those present and voting on a motion to elect a particular person as town moderator, shall fill such vacancy until the next town election.

Until town meeting fills such vacancy the town clerk shall serve as temporary presiding officer of such body.

Comment [CG20]: We propose to change "meting" to "meeting" and treat it as a typo. Okay?

(2) **Multiple Member Body** - If there is a vacancy in a board consisting of two or more members, other than the board of selectmen and unless under the terms of a will or other trust some other provision is made, the remaining members shall give written notice of the existence of any such vacancy to the board of selectmen, who, with the remaining members or member of such board shall, after one week's notice, fill such vacancy by ballot.

Comment [CG21]: What does "one week's notice" mean? How is that defined?

(3) **Board of Selectmen** - If there is a failure to elect or if a vacancy occurs in the office of selectman, the remaining selectmen may call a special election to fill the vacancy and shall call such special election upon the request, in writing, of two hundred registered voters of the town.

Comment [CG22]: Why 200 registered voters? Why not some other number (say, some percentage of the registered voters)?

(h) **Recall**

(1) **Application** - With the exception of town meeting members and trustees of the Morse Institute, any person who holds an elected town office, with more than six months remaining of the term of office, may be recalled from office by the voters, in the manner provided in this section.

(2) **Recall Petitions** - One hundred and fifty or more voters may file with the town clerk an affidavit containing the name of the officer whose recall is sought and a statement of the grounds for recall. The signatures on such petitions shall contain the names of at least ten voters in each of the precincts into which the town is divided for the purpose of electing town meeting members.

Comment [CG23]: Why 150?

Comment [CG24]: Some of us found this Recall section confusing. John, could you perhaps describe for us how this is supposed to work?

If the said petition is found to be valid, the town clerk shall thereupon deliver to the ten persons first named on such petitions, petition blanks demanding said recall, printed forms of which he shall keep available. The blanks may be completed by printing or typewriting; they shall be addressed to the board of selectmen; they shall contain the names of the ten persons to whom they are issued and the grounds for recall as stated in the affidavit; they shall demand the election of a successor to the office; they shall be dated and signed by the town clerk. The recall petitions shall be returned to the office of the town clerk within twenty days following the date they are issued, signed by at least fifteen per cent of the total number of persons registered to vote as of the date of the most recent town election.

Comment [CG25]: Is this 10 persons in total, or 10 persons per precinct?

The town clerk shall, within twenty-four hours following such filing with him, submit the petitions to the board of registrars of voters which shall, within five days thereafter, certify thereon the number of signatures which are the names of voters.

(3) **Recall Elections** - If the petitions shall be certified by the registrars of voters to be sufficient, the town clerk shall forthwith submit the same with his certificate to the board of selectmen. Upon its receipt of the certified petition, the board of selectmen shall forthwith give notice, in writing, of said petition to the officer whose recall is sought. If said officer does not resign his office within five days following delivery of the said notice, the board of selectmen shall order a special election to be held not less than thirty-five nor more than sixty days after the date of certification of the town clerk that the petition is sufficient. If a vacancy occurs in the office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section, but only the ballots for candidates need be counted.

(4) **Nomination of Candidates** - An officer whose recall is sought may not be a candidate to succeed himself in the event the vote on the question of recall is in the affirmative. The number of signatures of voters required to place the name of a candidate on the official ballot for use at a recall election shall be not less than fifty; no preliminary election shall be held. The publication of the warrant

for the recall election and the conduct of the recall election shall be in accordance with the general laws regulating elections.

(5) **Propositions on the Ballot** - Ballots used at the recall election shall state the proposition in the order indicated:

For the recall of

(Name of officer)

Against the recall of

(Name of officer)

Adjacent to each proposition shall be a place to vote for either of said propositions. After the said proposition shall appear the word "candidates" and the names of candidates arranged alphabetically. If a majority of the votes cast on the proposition is against the recall, the votes for candidates need not be counted. If a majority of the votes cast is in favor of the recall, and provided at least twenty per cent of the total number of voters as of the date of the most recent town election have participated at such recall election, the officer shall be deemed to be recalled and the ballots for candidates shall then be counted and the candidate receiving the highest number of votes shall be declared elected.

(6) **Officeholder** - The incumbent shall continue to hold his office and to perform his duties until the recall election. If he is not then recalled, he shall continue in office for the remainder of his unexpired term, subject to recall as provided in section (7) below.

(7) **Repeat of Recall Petition** - No recall shall be filed against an officer within six months after he takes office, or in the case of an officer subjected to a recall election and not recalled thereby, until at least six months after the election at which his recall was submitted to the voters.

Section 3-2 Board of Selectmen

(a) **Composition, Term of Office** - There shall be a board of selectmen consisting of five members elected for terms of three years each, so arranged that the terms of as nearly an equal number of members as is possible shall expire each year.

(b) **Powers and Duties** - The executive powers of the town shall be vested in the board of selectmen which shall be deemed to be the chief executive office in the town. The board of selectmen shall have all of the executive powers it is possible for a board of selectmen to have and to exercise. The board of selectmen shall serve as the chief policy making agency of the town. It shall be responsible for the issuance of policy directives and guidelines to be followed by all town agencies serving under it and, in conjunction with other elected town officers, to develop and to promulgate policy guidelines designed to bring all agencies of the town into harmony. Provided, however, nothing in this section shall be construed to authorize any member of the board of selectmen, nor a majority of them, to become involved in the day-to-day administration of any town agency. It is the intention of this provision that the board of selectmen shall act only through the adoption of broad policy guidelines which are to be implemented by officers and employees appointed by or under its authority.

The board of selectmen shall cause a record of all its official acts to be kept. To aid it to perform its duties, the board of selectmen shall appoint a town administrator as provided in Article 4.

(c) **Appointment Powers** - Subject to the provisions of Article 6, the board of selectmen shall appoint a town administrator for a term of not less than three nor more than five years; a town comptroller for a term of three years; three registrars of voters for terms of three years each, so arranged that one such term of office shall expire each year; a board of appeals to consist of five members appointed for terms of three years each, so arranged that as nearly an equal number of such terms as is possible shall expire each year, and three associate members appointed for terms of three years each, so arranged that one such term of office shall expire each year; a conservation commission to consist of seven members appointed for terms of three years each, so arranged that as nearly an equal number of such terms as is possible shall expire each year; a town counsel for a term of one year; a director of veterans' services; a police chief, in accordance with the civil service laws and rules; a fire chief, in accordance with the civil service laws and rules.

Comment [CG26]: Martha/John, is this what the BoS is doing?

Comment [CG27]: Board of appeals – is that defined by the state as what Natick refers to as the Zoning Board of Appeals? Is this adequately defined for our town?

The board of selectmen shall also appoint such other members of multiple member bodies as may be provided by town meeting vote or by their own vote for the purpose of conducting various studies.

(d) **Licensing Authority** - The board of selectmen shall be a licensing board for the town and shall have a power to issue licenses as otherwise authorized by law, to make all necessary rules and regulations regarding the issuance of such licenses and to attach conditions and to impose restrictions on any such license as it may issue as it deems to be in the public interest, and to enforce all laws relating to all such businesses for which it issues any licenses.

Comment [CG28]: There is a grammar problem here; the word "it" is used twice and grammatically it refers to the license, but we think what it is meant to refer to is the BoS.

Section 3-3 School Committee

(a) **Composition, Term of Office** - There shall be a school committee consisting of seven members elected for terms of three years each, so arranged that the terms of as nearly an equal number of members as is possible shall expire each year.

(b) **Powers and Duties** - The school committee shall have all of the powers and duties which are given to school committees by general laws and it shall have such additional powers and duties as may be authorized by the charter, by by-law, or by other town meeting vote. The powers of the school committee shall include, but are not intended to be limited to the following:

- (i) to appoint a superintendent of the schools and all other personnel permitted by law connected with the schools, to fix their compensation, to define their duties, to make rules concerning their tenure of office and to discharge them.
- (ii) to make all reasonable rules and regulations consistent with law for the administration and management of the public school system and for the conduct of its own business and affairs.

Section 3-4 Board of Assessors

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

(b) **Powers and Duties** - The board of assessors shall annually make a fair valuation of all property, both real and personal, within the town. It shall determine, based on such valuation and such sums as may be authorized to be expended by vote of the town meeting, and consideration of other income and expenses of the town, annually the rate of taxation to apply to property within the town. The board of assessors shall have all of the powers and duties which are given to boards of assessors by general laws and it shall have such additional powers and duties as may be provided by charter, by by-law or by other town meeting vote.

Section 3-5 Town Clerk

- (a) **Term of Office** - There shall be a town clerk elected for a term of three years.
- (b) **Powers and Duties** - The town clerk shall be the keeper of vital statistics for the town, the custodian of the town seal, shall administer the oath of office to any person, elected or appointed, who shall apply to him for such purpose, shall issue such licenses and permits as are required by general laws to be issued by town clerks, supervise and manage the conduct of all elections and matters relating to elections, be the clerk of the representative town meeting, keep its records and, in the absence of the moderator, serve as a temporary presiding officer of such body. The town clerk shall have all other powers and duties which are given to town clerks by general laws and he shall have such additional powers and duties as are provided by charter, by by-law or by other town meeting vote.

Section 3-6 Constables

- (a) **Number, Term of Office** - There shall be six constables elected for terms of three years each.
- (b) **Powers and Duties** - Constables may serve such civil writs and processes as are authorized by law. They shall have the powers of sheriffs to require aid in the execution of their duties. They shall take due notice of and prosecute all violations of law respecting profane swearing and gaming. They shall serve all warrants and other processes directed to them by the selectmen of the town for notifying town meetings, or for other purposes.

Comment [CG29]: Martha/John, are Natick's constables really prosecuting all violations of law respecting profane swearing and gaming?

Section 3-7 Board of Health

- (a) **Composition, Term of Office** - There shall be a board of health consisting of three members elected for terms of three years each, so arranged that the term of one member shall expire each year.
- (b) **Powers and Duties** - The board of health shall be responsible for the formulation and enforcement of rules and regulations affecting the environment and the public health and for the enforcement of state laws and the state sanitary code in matters affecting the public health. The board of health shall have all of the powers and duties which are given to boards of health by general laws, and such additional powers and duties as may be provided by charter, by by-law or by other town meeting vote.

Comment [CG30]: Martha, does Bob Bois interact with the Board of Health on issues affecting the environment? If not, should he?

Section 3-8 is deleted.

Section 3-9 Trustees, Morse Institute

- (a) **Composition, Term of Office** - There shall be a board of trustees of the Morse Institute consisting of five members elected for terms of five years each, so arranged that all of the terms of office of members shall expire at the same time.
- (b) **Vacancies** - In case a vacancy shall happen in said board by reason of the resignation or death of any of its members, or of their removal from the town, it shall be filled at the next annual town election, and until such vacancy is filled, the remaining members shall have and exercise all the powers of the full board.
- (c) **Powers and Duties** - The board of trustees of the Morse Institute shall have exclusive control of the said Institute. The trustees shall have all of the other powers and duties as are provided to them under the will of Mary Ann Morse, who died July 1, 1862.

Section 3-10 Town Moderator

(a) **Term of Office** - There shall be a town moderator elected for a term of three years.

(b) **Powers and Duties** - The town moderator shall be the presiding officer of the representative town meeting, as provided in Section 2-8, regulate its proceedings and perform such other duties as may be provided by general law, by charter, by by-law or by other town meeting vote.

Section 3-11 Planning Board

(a) **Composition, Term of Office** - There shall be a planning board consisting of five members elected for terms of five years each, so arranged that the term of one member shall expire each year. There shall be one associate member of the planning board elected for a term of five years and having such duties and powers as permitted by general laws, special laws, the charter or the by-laws.

(b) **Powers and Duties** - The planning board shall make careful studies of the resources, possibilities and needs of the town and shall make plans for the development of the town. The board shall have the power to make a comprehensive or master plan, setting forth in graphic and textual form policies to govern the future growth and development of the entire town. The planning board shall have all of the other powers and duties planning boards are given by general laws, special laws, the charter or the zoning by-laws.

The planning board shall make recommendations to the representative town meeting on all matters affecting land use and development and estimates of their costs. The planning board shall have all of the other powers and duties planning boards are given by general laws.

Section 3-12 Recreation and Parks Commission

(a) **Composition, Term of Office** - There shall be a recreation and parks commission consisting of nine members: 5 members, elected at large and 4 members appointed by the Board of Selectmen. Elected members shall serve a three-year term so arranged so that over a three-year period the terms of two members shall expire in the first year, the terms of two other members shall expire in the second year and the term of the fifth member shall expire in the third year. Appointed members shall serve a two-year term so arranged so that an equal number of terms shall expire each year.

(b) **Powers and Duties** - The recreation and parks commission shall advise the town administrator and the responsible department heads on all matters relating to recreational programs conducted by the recreation and parks department and on the maintenance of recreational facilities where those programs are conducted. The commission shall assure that programs are devised and conducted to meet the leisure time needs of all segments of the population. Whenever the position of superintendent of the recreation and parks department shall become vacant, the commission shall serve as a screening committee for the filling of such vacancy and shall submit two or more names to the town administrator from whom the appointment shall be made.

Section 3-13 deleted.

Section 3-14 Natick Housing Authority

(a) **Composition, Term of Office** - There shall be a Housing Authority which shall consist of five members serving for terms of five years each so arranged that the term of one member shall expire each year. Four of these members shall be elected by the voters and the fifth member shall be appointed by the Secretary of Communities and Development of the Commonwealth (or as may otherwise be provided by law).

Comment [CG31]: Is this state-level title current? If not, should we update this?

(b) **Powers and Duties** - The Housing Authority shall make studies of the housing needs of the community and shall provide programs to make available housing for families of low income and for elderly persons of low income. The Housing Authority shall have such other powers and duties as are assigned to housing authorities by general law.

Sections deleted.

ARTICLE 7
GENERAL PROVISIONS

Section 7-1 Charter Changes

This charter may be replaced, revised or amended in accordance with any procedure made available under the state constitution, or by statute enacted in accordance with the state constitution.

Section 7-2 Severability

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

Section 7-3 Specific Provisions to 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 7-4 Rules and Regulations

A copy of all rules and regulations adopted by town agencies shall be placed on file in the office of the town clerk and made available for review by any person who shall request such information.

Comment [CG32]: Martha/John, is this actually being done?

Section 7-5 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; words importing the masculine gender shall include the feminine gender.

Comment [CG33]: John, is the use of the word "importing" required? It seems to be an odd word.

Section 7-6 Periodic Review, Charter and By-Laws

(a) **Establishment of Committee** - The town meeting shall provide for the establishment of a special committee to be appointed by the Moderator, unless otherwise directed by vote of town meeting. Said committee shall review the provisions of the charter and the by-laws and shall make a report, with recommendations, to the town meeting, concerning any proposed amendments or revisions, which said committee may deem to be necessary or desirable.

The town meeting shall establish the committee at least within five years of the time the previous committee was dissolved and, at any time, may vote to extend the term of the committee or the time by which the committee is required to submit a report.

Comment [CG34]: We have a few questions here, John. Can TM articles be referred to the Moderator? Can a CBRC be established "on the spot" without a warrant article to specifically establish such committee?

(b) **Review Procedures** - The committee shall conduct its review with the assistance of town counsel or, if the town meeting so directs, special counsel retained for that purpose. A report, with recommendations, shall be submitted to the town meeting not more than ten months following the date such committee is appointed or as otherwise provided by town meeting vote.

(c) **Copies of Charter and By-Laws** - Copies of the charter and by-laws of the town, as most recently amended or revised, shall be kept available for distribution to any person who may request the same at the office of the town clerk. A charge, not to exceed the actual cost of reproduction of said material, may be charged. In an interval between publication of the charter or by-laws, as amended or revised, supplements shall be published which shall contain all enactments affecting the charter or by-laws since last published in consolidated form.

Section 7-7 Definitions

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

- (a) **Charter** - The word "charter" shall mean this charter and any amendments to it which may hereafter be adopted.
- (b) **Days** - The word "days" shall refer to business days, not including Saturdays, Sundays and legal holidays when the time set is less than seven days; when the time set is seven days or more, every day shall be counted.
- (c) **Emergency** - The word "emergency" shall mean a sudden, unexpected, unforeseen happening, occurrence or condition which necessitates immediate action.
- (d) **general laws** - The words "general laws" (all lower case letters) shall mean laws which apply alike to all cities and towns, or to all towns, or to a class of municipalities of which Natick is a member.
- (e) **General Laws** - The words "General Laws" (used with initial capital letters) shall refer to the General Laws of Massachusetts, a codification and revision of statutes enacted on December 22, 1920, and including all amendments thereto subsequently enacted.
- (f) **Local Newspaper** - The words "local newspaper" shall mean a newspaper of general circulation in the town of Natick.
- (g) **Majority Vote** - The words "majority vote" shall mean a majority of those present and voting, provided a quorum is present when the vote is taken, unless a higher number is required by law or by its own rules.
- (h) **Multiple Member Body** - The words "multiple member body" shall mean any town body consisting of two or more persons, whether elected, appointed, or otherwise constituted, but not to include the representative town meeting.
- (i) **Town** - The word "town" shall mean the town of Natick.
- (j) **Town Agency** - The words "town agency" shall mean any board, commission, committee or other multiple member body, department, division, or office of the town of Natick.
- (k) **Town Bulletin Boards** - The words "town bulletin boards" shall mean the bulletin board in the town hall on which official notices are posted, and those at such other locations within the town which may, from time to time, be established by the board of selectmen.
- (l) **Voters** - The word "voters" shall mean persons who are registered to vote in the town of

Comment [CG35]: Martha/John, are you aware of any other bulletin boards which the BoS have established as posting places? Who selects the various places where items are to be posted about town/

Natick.

Section 7-8 Loss of Office, Excessive Absence

If any person appointed to serve as a member of a multiple member body shall fail to attend six or more consecutive meetings, or one half or more of all meetings held during one calendar year, the remaining members of the multiple member body may by vote petition the appointing authority to remove such person in accordance with the procedures established in Section 7-11.

Comment [CG36]: We think the comma after "half" is extraneous and should be removed as typo. John, do you agree that this would be considered a typo?

Section 7-9 Procedure Governing Multiple Member Bodies

(a) **Meetings** - All multiple member bodies, whether elected, appointed or otherwise constituted, shall meet regularly at such times and places within the town as they may, by vote, prescribe. Special meetings of any multiple member body shall be held upon the call of its chairman, or by one-third of the members thereof, by notice to each member, except in the case of emergency, at least forty-eight hours in advance of the time set, which indicates the subject to be acted upon and the time and place of such special meeting, whether within or without the town. A copy of the same notice shall be posted on the town bulletin board. Regular meetings of all multiple member bodies shall be held in public buildings of the town of Natick.

(b) **Rules and Journals** - Each multiple member body shall determine its own rules and order of business, unless otherwise provided by the charter or by law, provided, however, that each multiple member body shall provide some period of time at each of its meetings for members of the public who are present to ask questions, state opinions and otherwise interchange information with the members of the multiple member body. Each multiple member body shall also provide for the keeping of a journal of its proceedings. These rules and the journal shall be a public record.

Comment [CG37]: John, how is a "journal" defined? Original notes, or minutes derived and approved from those notes (or both)?

(c) **Voting** - If requested by any member, any vote of a multiple member body shall be taken by a roll call vote and the vote of each member shall be recorded in the journal, provided, however, if any vote is unanimous only that fact need be recorded.

(d) **Quorum** - A majority of the full membership of a multiple member body shall constitute a quorum, but a smaller number may meet and adjourn from time to time. While a quorum is present, unless another provision is made by law or by its own rules, all business shall be determined by a majority of those present and voting.

(e) **Filling of Vacancies** - Whenever a vacancy shall occur in the membership of an appointed multiple member body, the remaining members shall forthwith give written notice of such vacancy to the appointing authority. If, at the expiration of thirty days following delivery of such written notice to the appointing authority, said appointing authority has not appointed some person to fill the vacancy, the remaining members of the multiple member body shall fill such vacancy for the remainder of the unexpired term by a majority vote of the remaining members.

Section 7-10 Notice of Vacancies

Whenever a vacancy occurs in any town agency, or in town employment, or when by reason of retirement or the expiration of a fixed term, a vacancy can be anticipated, the board of selectmen, or other appointing authority shall forthwith cause public notice of the vacancy or impending vacancy to be posted on the town bulletin board for not less than ten days. Such notice shall contain a description of the duties of the office or position and a listing of necessary or desirable qualifications for the position. No permanent appointment to fill a position shall be effective until at least fourteen days have elapsed following such posting, to permit reasonable consideration of all applicants. This section shall not apply to positions covered by the civil service law and rules or if in conflict with the requirements provided under the terms of a collective bargaining agreement.

Section 7-11 Removals and Suspensions

Any appointed officer or employee of the town, not covered by the provisions of general law or the terms of a collective bargaining agreement, whether appointed for a fixed or an indefinite term, may be suspended or removed from his duties by the appointing authority.

Comment [CG38]: John, would a contract with an employee be considered "provisions of general law"?

The appointing authority when acting to remove or to suspend any appointed officer or town employee, shall act in accordance with the following procedure:

- (a) A written notice of the intent to remove or to suspend and a statement of the cause or causes therefor, shall be delivered in hand to the officer or employee, or mailed by registered or certified mail to his last known address.
- (b) Within five days following delivery of the said notice, the officer or employee may request a public hearing by submitting, in writing, a request therefor to the appointing authority, and by filing a copy of said request in the office of the town clerk.
- (c) The appointing authority shall hold a public hearing not less than seven nor more than fourteen days following the date of receipt of a request therefore, and shall give not less than five days written notice of such public hearing to the officer or employee affected. The officer or employee shall have the right to be represented by counsel at such hearing, to call witnesses, to examine witnesses and to introduce evidence at the public hearing.
- (d) Not more than fourteen days following the public hearing, or not more than fourteen days following the delivery of the original notice of intent if no public hearing has been requested, the appointing authority shall take final action on the removal or suspension and shall, forthwith, notify the officer or employee of the removal or suspension, or that the notice of intent has been rescinded.

Article 8 deleted.

ARTICLE 1

TOWN MEETINGS

Section 1 Annual Town Meetings

In accordance with Section 3-1 (c) and Section 2-12 (a) of the Charter, the following dates are established. The town election, officially known as the Annual Town Meeting for the election of Town officers and for the determination of all questions as are by law to be decided by ballot of the voters, shall be held on the last Tuesday in March of each year. The spring session of the representative town meeting, known as the Spring Annual Town Meeting, shall be called for 7:30 P.M. on the second Tuesday following the town election. The fall session of the representative town meeting, known as the Fall Annual Town Meeting, shall be called for 7:30 P.M. on the third Tuesday in October of each year.

Section 2 Special Town Meetings

The Board of Selectmen shall call a Special Town Meeting, in accordance with Section 2-11 (c) of the Charter, by giving public notice in a local newspaper at least twenty-eight (28) days prior to the date of such Special Town Meeting, except where compliance with this provision would defeat the purpose of said Special Town Meeting. Special Town Meetings shall be held on a Tuesday at 7:30 P.M.

Comment [CG39]: A CBRC member asked about the possible use of the term "Emergency Town Meeting."

Section 3 Adjourned Town Meetings

Adjourned sessions of every Town Meeting, when required, shall be held on the following Thursday at 7:30 P.M., and on consecutive Tuesdays and Thursdays thereafter at 7:30 P.M. Such sequence shall not include any Tuesday or Thursday that occurs on or during (a) a holiday for town employees designated by the Town of Natick or (b) a holiday or vacation for students (other than summer vacation) designated by the Natick Public Schools. Notwithstanding the previous provisions of this section, Town Meeting may, by a two-thirds (2/3) vote of the Town Meeting Members present and voting, adjourn to any date and time.

Comment [CG40]: Is this grammatically correct - 'adjourned sessions...'?

Section 4 Publication of Warrant

The warrant for the town election or preliminary election shall be posted at least fourteen days before the date of the election. The warrant for any other Town Meeting shall be posted in accordance with Section 2-11(d) of the Charter. Service of the Warrant for every Town Meeting, unless a different time or method is prescribed by law, shall be made by posting an attested copy thereof in each of the Post Offices, on the Town Website, all public libraries and in not less than one public place in each precinct in said Town, and by publishing in a newspaper of general circulation in said Town a notice of availability of an attested copy of said warrant and the titles of the articles on the Warrant.

Comment [CG41]: How much of this is required by state law?

Section 5 Initiation of Articles

In accordance with Article 2, Section 2-11 of the Charter the Board of Selectmen shall receive all petitions which are addressed to it and which request the submission of particular subject matter to the representative town meeting and which are filed by parties designated under Section 2-11(b) of the Charter or the Town Administrator.

ARTICLE 2

NOMINATION AND ELECTION PROCEDURES FOR TOWN MEETING MEMBERS

Section 1 Nomination Procedure for Town Meeting Members

In addition to the nomination procedure in Section 2-4 (b) of the Charter, this alternative nomination procedure, authorized by Section 10 of Chapter 53 of the General Laws, may be used in the case of an incumbent Town Meeting member seeking reelection.

Comment [CG42]: What does this section of the MGL specify as the procedure?

Before the annual town election, the Town Clerk shall notify all Town Meeting members whose terms of office will expire and shall ask them to notify him if they desire to be candidates for reelection. If they do notify him in the manner directed, they shall be nominated for the office.

Comment [CG43]: As Town Clerk to take a look at this; does it conflict with MGL?

Section 2 Election of Town Meeting Members

All candidates for Town Meeting member shall be listed together on the ballot. In descending order of votes received, Town Meeting members shall be elected to the number of three-year terms to be filled, then to the number of two-year terms, and then to the number of one-year terms. Procedures in Section 2-5 of the Charter shall be used to resolve ties.

Comment [CG44]: This is partially but not completely repetitive of the Charter. Is there a reason why we need to duplicate the charter here?

ARTICLE 3

PROCEDURE AT TOWN MEETINGS

Section 1 Rules of Procedure

The proceedings of Town Meetings shall be governed by such rules of practice as are clearly set out in the most recent edition of "Town Meeting Time" by Johnson, Trustman, and Wadsworth, except as modified by law or by the following sections. In the event that "Town Meeting Time" does not clearly indicate a single course of action, the ruling of the Moderator shall prevail.

Comment [CG45]: Where, if anywhere, does it state that the source of funding must be specified in a town meeting article? Is that a MGL requirement, or a Natick Charter/Bylaw requirement?

Section 2 Motions in Writing

All motions offered for the consideration of the Town Meeting shall be in writing if required by the Moderator; and all motions involving the expenditure of money shall be in writing when required by any Town Meeting Member.

Section 3 Speaking

No person shall speak upon a question more than once when any other person desires to be heard, nor more than twice on the same question without permission of the Town Meeting; and no person shall speak more than ten (10) minutes at one time without permission of the Town Meeting.

With reference to motions to lay on the table, take from the table, or postpone to a time certain, no person shall speak more than once or for more than two (2) minutes.

Section 4 Voting

Voting by Town Meeting Members shall be by a show of hands unless otherwise voted as hereinafter provided. On matters requiring a two-thirds vote by statute, as authorized under Section 15 of Chapter 39 of the General Laws, a count need not be taken. If the result of a vote by show of hands is in doubt, or if the result is questioned by seven (7) Town Meeting Members, the Moderator shall appoint tellers who shall count the vote. Upon motion affirmatively voted by two-thirds (2/3) of the Town Meeting Members, a vote shall be taken by secret ballot.

Comment [CG46]: The Moderator has asked that this be modified to include the possibility of electronic voting. The Moderator will be asked to propose appropriate wording.

Section 5 Reconsideration

The subject matter of any article once voted upon in any manner may be reconsidered only once, but at any time during the same Town Meeting, provided compelling circumstances are stated which indicate that reconsideration is warranted.

Comment [CG47]: The possibility of a roll call (voice) vote should be included here. Jay Ball offered to draft this wording.

Section 6 Precedence of Motions

When a question is before the Town Meeting, motions shall be received and have precedence as listed in the table entitled "Precedence of Motions," which is incorporated into this section by reference.

Section 7 Quantum of Vote

All votes shall be by a majority except where otherwise provided in these by-laws or where otherwise required by law; and all references to the size of the vote required shall mean of those present and voting.

Section 8 Financial Interest

Any person having a monetary or equitable interest in any matter under discussion at a Town Meeting, and any person employed by another having such an interest, shall disclose the fact of his interest or employment before speaking thereon.

Section 9 Specifying Site of Work

Any vote of the Town Meeting appropriating money for the construction, reconstruction, installation or improvement of a public way, or a sewerage or water facility, shall specify where the work is to be done.

Section 10 Appointing Committees

All committees shall be appointed by the Moderator presiding at the meeting, unless otherwise ordered by a vote of two-thirds (2/3) of the Town Meeting Members present and voting.

Comment [CG48]: It's unclear if this means the committee members actually have to be appointed during the Town Meeting, or if it takes a 2/3 vote to have someone other than the Moderator make the appointments, or if it means something else. Jay Ball offered to draft revised wording.

All committees shall be appointed within thirty (30) days from the dissolution of a Town Meeting.

Section 11 Motion for the Previous Question

The motion for the previous question shall not be entertained by the Moderator if three or more persons are seeking recognition who have not previously spoken to the question.

Comment [CG49]: The hard copy that we have says "Section 11 deleted" right before the (new) Section 11. Those words have been removed from this electronic version.

Comment [CG50]: The possibility of "No Action" should be added to an appropriate location in these bylaws.

PRECEDENCE OF MOTIONS

Comment [CG51]: Ms Adelman Foster is comparing this to Town Meeting Time.

Motion	Second Required	Debate	Amend	Vote Required
Adjourn or dissolve	Yes	No	No	Majority
Adjourn to a fixed time or recess	Yes	Yes	Yes	Majority
Lay on the table	Yes	Yes ⁺	No	2/3 Majority
For the previous question ⁺⁺⁺	Yes	No	No	2/3 Majority
For secret ballot	Yes	No	No	2/3 Majority
Roll call vote	Yes	Yes	No	1/3 Majority
Postpone to a time certain	Yes	Yes ⁺	Yes	Majority
Commit, recommit, or refer	Yes	Yes	Yes	Majority
Amend	Yes	Yes	Yes	Majority
Postpone indefinitely	Yes	Yes	No	Majority
Main Motion	Yes	Yes	Yes	Majority ⁺⁺
Reconsideration	Yes	Yes	No	2/3 Majority
Take from the table	Yes	Yes ⁺	No	Majority
Take up an article out of order	Yes	Yes	Yes	2/3 Majority

+ See Section 3.

++ Some main motions are required by the general laws to be passed by greater than a majority vote; for example, bond issues, zoning changes, the taking of land require a 2/3 vote. For other examples, refer to the appendix in *Town Meeting Time* entitled "Quantum of Vote."

+++ See Section 11

ARTICLE 11

TOWN CLERK

Section 1 Records of Deeds, Permits, Licenses, and Grants

The Town Clerk shall keep a true copy, in books to be kept for such purposes alone, of all deeds, permits, licenses, and grants issued and executed by the Selectmen and of such other instruments executed by the Selectmen in accordance with the provisions of these by-laws. He shall not allow original papers or documents of the Town to be taken from his office, except as they remain in his custody, or by authority of law.

Comment [CG52]: Does the Town Clerk actually do this?

Comment [CG53]: Should a section or sentence be added to designate the Town Clerk as the official keeper of final minutes for all town boards/committees.

Section 2 Recording of Deeds

The Town Clerk shall cause every conveyance to the Town of any interest in land to be properly recorded in the appropriate Registry of Deeds or Land Registration Office. After recording, the deeds shall be delivered to the Town Treasurer in whose custody they shall remain.

Section 3 Record of Town Meeting Proceedings

The Town Clerk shall keep and cause to be permanently bound one or more files of the Town Reports. He shall publish in the annual printed report of the Town a copy of his record of all Town Meetings that have been held during the preceding year. The record of the Town Meeting proceedings and the Attorney General's approval, if any, for each Warrant Article shall be set forth immediately following the article itself.

Section 4 Notification of Election or Appointment

The Town Clerk shall notify, or cause to be notified, all persons chosen or elected by the Town or appointed on Committees, of their election, choice, or appointment. He shall furnish all boards and committees with a copy of all votes affecting them.

Section 5 Forms for Petitions and Reports

The Town Clerk shall furnish blanks, with appropriate headings, upon which petitions, reports and other papers in the ordinary course of Town proceedings may be prepared.

Comment [CG54]: Can this comma be deleted without a Town Meeting voting on it?

Section 6 Notification of Town Meeting Action

The Town Clerk shall furnish the various Town officers and committees a copy of such action of the Town as affects them respectively immediately after the Town Meeting; and he shall forward to the Attorney General's office immediately after dissolution of the Town Meeting copies of new by-laws and zoning regulations.

Section 7 Record of Town Meeting Attendance

A record available for public inspection shall be kept by the Town Clerk of the attendance of Town Meeting Members at each Town Meeting or adjourned Town Meeting thereafter. The Town Clerk shall compile a yearly attendance record of all Town Meeting Members for publication in the Annual Town Report and for distribution as a news release to the media.

Comment [CG55]: Is this really being done? If not, should it be, or should these words be deleted?

Section 8 Notice of Removal of Residence of Elected Town Officer

An elected Town officer who removes from the Town and no longer maintains a residence in the Town or who becomes a registered voter elsewhere shall resign in accordance with Section 109 of Chapter 41 of the General Laws. If the Town Clerk receives a notice in writing that an elected Town officer, but not including a Town Meeting Member, has removed from the Town or has registered elsewhere, the Town Clerk shall notify the elected Town officer in writing of the eligibility requirement for elective Town office as specified in Section 3-1 (b) of the Charter and of the resignation requirement as specified in said Section 109.

Comment [CG56]: John Flynn, can you check Section 109 of Chapter 41 of MGL – is this accurate?

Section 9 Verification of Removal of Residence of a Town Meeting Member

Upon receipt of notice in writing from any voter of the Town to the effect that a Town Meeting Member has removed his residence from the Town, the Town Clerk shall immediately verify such information, and upon such verification, shall cause the vacancy to be filled in a manner provided for by law.

Section 10 Notice of Town Meeting Appointments

The Town Clerk shall post a notice on the Town bulletin board to announce all new appointments to fill vacancies in the Town Meeting membership as they occur.

Section 11 Notification of Hearings Before Board of Appeals

The Town Clerk shall provide, within three business days, to all Town Agencies or Officials who shall request or require same, a copy of any petition or application filed with the Town Clerk for hearing before the Board of Appeals.

Comment [CG57]: How would it be determined which Town Agencies or Officials “require” such notification? Is the Town Clerk doing this?

Section 12 Political Calendar

The Town Clerk shall prepare a political calendar for the year showing all elections and Town Meeting dates, including all associated filing dates. The Town Clerk shall make the calendar available by December 1 of the preceding year and shall prepare a revised version whenever new dates are established or any information changes. Copies of the calendar shall be available at the office of the Town Clerk upon request.

Section 13 Report to Voters of Town Meeting Seats to be Filled at Election

Prior to every election of Town Meeting Members, the Town Clerk shall prepare reports listing, by precinct, the number of seats to be filled and the number of candidates to date. The first report and two subsequent updated reports shall be issued as of twenty-eight, fourteen and seven days, respectively, before the last date for submitting nomination papers to the Registrars of Voters. For these reports, a person nominated for the office or who has submitted nomination papers shall be counted as a candidate. A final report shall be issued as of seven days after the last date for filing with the Town Clerk nomination papers with certified signatures. For this report, a person whose name is going to be on the ballot shall be counted as a candidate.

The Town Clerk shall post the reports as a notice on the Town website and shall make copies available to the public upon request.

Comment [CG58]: CBRC members questioned if a section should be added regarding the posting of notices, etc., on the town website. This is not currently required under the charter or bylaws – should it be?

ARTICLE 28

REGISTRARS OF VOTERS

Section 1 Composition, Term of Office

There shall be three members of the Registrars of Voters appointed by the Board of Selectmen to terms of three years each, so arranged that one such term of office shall expire each year. In addition, the Town Clerk shall be a member ex officio.

Comment [CG59]: Is there a requirement that there be at least one Democrat and one Republican on the Registrars of Voters? Is this required by MGL?

Comment [CG60R59]: Also, are the duties of this board specified in MGL? If so, should there be a reference to MGL in this article?

ARTICLE 40

TOWN REPORTS AND RECORDS

Section 1 Annual Reports

All Town Officers, Boards, and Committees shall file an annual report of their doings with the Board of Selectmen on or before January 15 of each year, and the Board of Selectmen shall cause such reports to be included in the Annual Town Report.

Any Committee failing to report as required to the Town Meeting shall be discharged unless the Town Meeting shall vote to continue the Committee notwithstanding.

Comment [CG61]: The committee found this sentence to be confusing. What is intended here?

Section 2 Distribution of Annual Town Report

The Selectmen shall have the printed Annual Town Report ready for distribution not later than March 25 of each year.

Comment [CG62R61]: Also, should this sentence be numbered Section 1-1, as it does not appear to have anything to do with the paragraph above.

Section 3 Minutes of Proceedings

In carrying out the provisions of Section 7-9 (b) of the Charter, each Town Board, Commission, Committee and Sub-Committee shall record the minutes of its proceedings within a reasonable time. The minutes shall contain therein the proceedings' official name, date, time of its opening and adjournment, members present, minutes of previous meeting corrected or approved; motions voted thereon as approved or denied; that the meeting was duly posted by its Clerk or Secretary, as required by law, with the Town Clerk; and attested by its Clerk or Secretary.

Comment [CG63]: Karen Adelman Foster will be asked to edit this paragraph.

Comment [CG64]: See comment immediately below.

Each Town Board, Commission, Committee and Sub-Committee shall notify the Town Clerk of its current mailing address and the location of its minutes which, by law, shall be available as public records.

Comment [CG65]: What if the board does not have a Clerk or Secretary? For example, the CBRC has neither. Can we say "or designee" in both locations?

In the event that any of these bodies are dissolved, these records shall be placed in the Town Clerk's Office for seven years.

Comment [CG66]: We are considering requiring that all minutes be filed with, and stored by the Town Clerk's office. What do you think?

Section 4 Real Estate Valuation Lists

In carrying out the provisions of Section 3-4 (b) of the Charter, the Assessors shall make available for public inspection their valuation lists for real estate for each year. The valuation lists shall be accessible in their office via computer; they shall be available online via the Town web site; and they shall be printed as documents for reference at the Morse Institute Library.

Comment [CG67]: Is this being done?

Section 5 Records of Tax Abatements

In carrying out the provisions of Section 3-4 (b) of the Charter, the Assessors shall make available for public inspection their lists of approved tax abatements as defined in Section 60 of Chapter 59 of the General Laws, including abatements for statutory exemptions as defined in Section 5 of said Chapter 59. The Assessors shall publish in the Annual Town Report for the just completed fiscal year the total amount of tax abatements, with subtotals by type, and the total amount of possible tax abatements for cases pending before the appellate tax board.

Section 6 Planning Board Report to Town Meeting

The Planning Board shall distribute its report on warrant article recommendations, as specified in Section 3-11 (b) of the Charter, to each Town Meeting Member at least ten (10) days in advance of a Town Meeting. The said recommendations shall be those of a majority of the Board, but this shall not be construed to prevent recommendations by a minority as such.

Comment [CG68]: Is the Planning Board doing this as required?

Section 7 Copies of Reports in Library

Two copies of all studies and reports prepared for the Town of Natick which have been authorized by a vote of Town Meeting shall be placed in the Town Library (the Morse Institute) within seven (7) days of the receipt of the completed document by any Town Department or office and retained for public examination.

Comment [CG69]: Who is responsible for placing these in the Morse Institute? The Town Clerk, the specific committee, or someone else? Also, is this actually being done?

From: John P. Flynn [jflynn@mhtl.com]
Sent: Wednesday, July 08, 2009 3:48 PM
To: 'Carol Gloff'
Cc: 'White, Martha'
Subject: Charter, Article 2

Carol:

My responses to the questions and comments of the Charter and By- Law Review Committee regarding Article 2 of the Natick Home Rule Charter are as follows.

1. Yes.
2. "and" rather than "or".
3. The comment seems directed at item (c). If those circumstances are satisfied, in that event the Charter would require the precinct boundaries to be reviewed and wholly or partially revised by the Board of Selectmen. Chapter 54, Section 6 of the Massachusetts General Laws provides that a copy of the division shall be transmitted by the Town clerk to the State Secretary no later than July 1 of the year in which the division is authorized. If the State Local Election Districts Review Commission finds that the plan conflicts with applicable law or is of questionable constitutionality, it shall notify the Board of Selectmen by September 1 of that year. The Board of Selectmen shall revise the division within the requested time, but no later than September 20 of that year. If the town fails to act by September 20, the Local Election Districts Review Commission shall make the division into precincts or appoint a master to make such a division.
4. The observation is correct.
5. We find no statute or case law which requires removal in these circumstances. In my opinion, the Town has the authority to adopt such a provision. In my opinion, many problems regarding applicability and enforcement would result, such as personal illness, illness of a spouse or child, loss of a job, need to work two or more jobs to make ends meet, etc.
6. If the Town Meeting vote which adopted this provision included a comma, a vote of town Meeting would be required to remove the comma.
7. Yes.
8. If "which" is in the Town Meeting vote which added this provision, a vote of Town Meeting is required to change it to "that".
9. The shaded language is the precise language that appears in Chapter 40A, Section 5 of the Massachusetts General Laws.
10. "Mailed" establishes a clear standard. "Provided" may create problems, for example, if one of those individuals is prevented by work schedule from picking it up at Town Hall. It may be difficult in certain circumstances to provide it to the individual in question.
11. The language means that a quorum is not necessary to adjourn a Town Meeting.
12. Yes with respect to the two types of appropriation described. No with respect to other types of appropriations, such as transfers from available funds, appropriations from free cash, or appropriations from the Stabilization Fund.
13. This change does not require a vote of Town Meeting.
14. We find no timeframes required by the Massachusetts General Laws.
15. We find no requirements in the Massachusetts General Laws.

Please inform the members of the Charter and By-Law Review Committee.

John Flynn.

From: John P. Flynn [jflynn@mhtl.com]
Sent: Wednesday, July 08, 2009 4:03 PM
To: 'Carol Gloff'
Cc: 'White, Martha'
Subject: Charter, Article 3

Carol:

My responses to the questions and comments of the Charter and By-Law Review Committee regarding Article 3 of the Natick Home Rule Charter (the Charter) are as follows.

1. Town Meeting member is an elected position, but it is not included within the scope of Article 3. Election of Town Meeting members is addressed in Article 2 of the Charter.
2. A voter is a person who is registered to vote in the Town of Natick. See Section 7-7 (l) of the Charter.
3. This is not required by the Massachusetts General Laws. Who and what defines the conspicuous places is not defined.
4. In the case of a single position to be filled, the two highest vote getters shall be on the ballot and no preliminary election is necessary.
5. If the vote of Town Meeting which adopted this provision includes "meting", a vote of Town Meeting is required to change it.
6. One week's notice means seven days' notice.
7. Chapter 41, Section 10 of the Massachusetts General Laws provides that in this situation the Board of Selectmen shall call a special election upon the request in writing of two hundred registered voters of the town, or twenty per cent of the registered voters of the town, whichever number is the lesser.
8. There is no statutory requirement.
9. I recommend deletion of the words at the end of the second sentence "into which the town is divided for the purpose of electing town meeting members". I interpret the two sentences to mean that the signatures of at least one hundred fifty voters are required on a recall petition. Those signatures shall include the signatures of at least ten voters in each of the Town's precincts. "Precinct" is defined in Article 2, Section 2-3 of the Charter.
10. Ten persons in total, that is, the first ten persons named on each petition, regardless of the precinct of residence.
11. The board is identified as the Board of Appeals in Chapter 40 A, Section 15 of the Massachusetts General Laws and in Article 29 of the By-Laws.
12. I recommend deletion of the words "as it may issue" in the second last line.
13. If the word "and" is included in the vote of Town Meeting which adopted this provision, a vote of Town Meeting is required to delete it.
14. I will defer to others.
15. The Environmental Compliance Officer/Conservation Agent interacts with the Board of Health on many issues affecting the environment. The Conservation Commission and the Board of Health have separate areas of jurisdiction, which occasionally overlap.
16. As far as we can determine, the appointment is currently made by the Under Secretary for Housing and Economic Development.

Please inform the members of the Charter and By-Law Review Committee.

John Flynn

From: John P. Flynn [jflynn@mhtl.com]
Sent: Wednesday, July 08, 2009 4:15 PM
To: 'Carol Gloff'
Cc: 'White, Martha'
Subject: Charter, Article 7

Carol:

My response to the questions and comments of the Charter and By-Law Review Committee are as follows.

1. Chapter 40, Section 33 of the Massachusetts General Laws requires this to be done for rules and regulations made by Town boards for which a penalty is provided by law.
2. This language appears in Chapter 4, Section 6 of the Massachusetts General Laws.
3. In my opinion, Town Meeting articles should not be referred to the Moderator. This would conflict with the duties of the position. A Charter and By-Law Review Committee should be established as a result of a warrant article. The Charter contemplates that this will be an action of Town Meeting, within no more than five years after the dissolution of the previous Committee. For the Moderator to be authorized to establish future Charter and By-Law Review Committees on the spot, the charter would need to be amended accordingly.
4. The only other posting places of which I am aware are in a different context, that is, for posting of the Town Meeting warrants. I believe that are selected by the Town Clerk.
5. If the comma was included in the Town Meeting vote which added this provision to the Charter, the comma, it may be removed only by a vote of Town Meeting.
6. A journal in this context is a minute book..
7. No. If the Committee's intent is to include within the scope of this provision a contract of employment with a non-union employee (for example, the Chief of Police or the Town Administrator), it is a valid point, because a collective bargaining agreement typically refers to an employee who is covered by a collective bargaining agreement with a union or other organization which represents employees. In that event, I recommend insertion of the words "or the terms of an employment agreement" after the words "or the terms of a collective bargaining agreement".

Please inform the members of the Charter and By-Law Review Committee.

John Flynn

From: John P. Flynn [jflynn@mhtl.com]
Sent: Wednesday, July 08, 2009 4:22 PM
To: 'Carol Gloff'
Cc: 'White, Martha'
Subject: By-Laws, Article 1

Carol:

My responses to the questions and comments of the Charter and By-Law Review Committee regarding Article 1 of the By-Laws are as follows.

1. In my opinion, "Emergency Town Meeting" would not be appropriate in this context. Special Town Meetings are not necessarily called in an emergency. They are usually called because there is a need for action before the next Annual Town Meeting. Chapter 39, Section 10 of the Massachusetts General Laws and Section 2-11 (c) of the Natick Home Rule Charter both identify such a town meeting as a special town meeting.
2. "Adjourned sessions" is grammatically correct.
3. Chapter 39, Section 10 of the Massachusetts General Laws does not contain any publication requirements. It provides that it shall be done in a manner prescribed by local by-laws.

Please inform the members of the Charter and By-Law Review Committee.

John Flynn

From: John P. Flynn [jflynn@mhtl.com]
Sent: Wednesday, July 08, 2009 4:29 PM
To: 'Carol Gloff'
Cc: 'White, Martha'
Subject: By-Laws, Article 2

Carol:

My responses to the questions and comments of the Charter and By-Law Review Committee regarding Article 2 of the By-Laws are as follows.

1. Chapter 53, Section 10 refers also to chapter 53, Section 7. The town clerk will focus on this procedure.
2. I don't believe that this provision conflicts with applicable law.
3. There is no legal requirement to duplicate the Charter provisions in this Article. If the intent is not to insert any additional provisions in the Charter, the text of Section 2 could read "Election of Town Meeting Members shall be as provided in Article 2 of the Charter":

Please inform the members of the Charter and By-Law Review Committee.

John Flynn

From: John P. Flynn [jflynn@mhtl.com]
Sent: Wednesday, July 08, 2009 4:33 PM
To: 'Carol Gloff'
Cc: 'White, Martha'
Subject: By-Laws, Article 3

Carol:

My responses to the questions and comments of the Charter and By-Law Review Committee regarding Article 3 of the By-Laws are as follows.

1. This is not a requirement in the Massachusetts General Laws, in the Natick Home Rule Charter, or in the Natick By-Laws. I believe that at least part of the rationale for the requirement includes the facts that the appropriation articles are intended to be within the limits set by Proposition 2 ½, and that the financial plan is established with all of the appropriation articles in mind, and that identification of the source of funding will allow the Town Administrator, the Finance Director, the Comptroller, the Finance Committee, et al, to determine whether any proposed funding will put the Town outside the Proposition 2 ½ limits or will require adjustments in other funding articles.
2. I will defer at this point to the Town Moderator.
3. An example of this concept is "If the result of a counted vote is in doubt, or if the result is questioned by twenty five (25) Town Meeting Members, then the roll of the meeting shall be called by the Town Clerk, and each Town Meeting Member present shall rise in his or her place and answer yea or nea when his or her name is called, and the Moderator shall announce the vote".
4. I recommend deletion of the words in the first line "presiding at the meeting". With that change, in my opinion the first paragraph of Section 10 would mean that the Moderator's appointment would not be required to be made during Town Meeting, and that the appointments are made by the Moderator unless Town Meeting by a 2/3 vote authorizes someone other than the Moderator to make the appointments.
5. My copy of the By-Laws does not include the words "Section 11 deleted".
6. If the Committee wishes to pursue such an amendment, I will draft the warrant article.
7. No comment at this time.

In addition, with respect to the second footnote below the chart on page 3-3 entitled "Precedence of Motions", my copy of the By-Laws does not have a colon after "Time" in the third line.

Please inform the members of the Charter and By-Law Review Committee.

John Flynn

From: John P. Flynn [jflynn@mhtl.com]
Sent: Wednesday, July 08, 2009 4:37 PM
To: 'Carol Gloff'
Cc: 'White, Martha'
Subject: By-Laws, Article 11

Carol:

My responses to the question and comments of the Charter and By-Law Review Committee regarding Article 11 of the By-Laws are as follows.

1. I will defer to the Town Clerk.
2. Such an amendment should be proposed if that is the Committee's intent.
3. If the comma is included in the text of the Town Meeting vote which adopted the provision, a vote of Town Meeting is required to remove the comma.
4. I will defer to the Town clerk at this point.
5. Chapter 41, Section 109 of the Massachusetts General Laws provides in part: "No resignation of a town or district officer shall be deemed effective unless and until such resignation is filed with the town or district clerk or such later time certain as may be specified in such resignation...or if an elected or appointed town or district officer removes from the town or district in which he holds his office, he shall be deemed to have vacated his office". I recommend that to clarify this point the last line of Section 8 should read: "the Charter and of the resignation requirement and vacation of office provisions specified in said Section 109".
6. The only Town board, agency or official required to receive notice is the Planning Board. General Laws Chapter 40A, Section 11.
7. Such a requirement is not legally required. The Town would have the authority to add such a requirement, in addition to the present publication and posting requirements. A certain segment of the population does not have internet access.

Please inform the members of the Charter and By-Law Review Committee.

John flynn

From: John P. Flynn [jflynn@mhtl.com]
Sent: Wednesday, July 08, 2009 4:45 PM
To: 'Carol Gloff'
Cc: 'White, Martha'
Subject: By-Laws, Article 28

Carol:

My responses to the questions and comments of the Charter and By-Law Review Committee regarding Article 28 of the By-Laws are as follows.

1. Chapter 51, Section 18 of the Massachusetts General Laws Provides in part "...registrars of voters shall be so appointed that the members of the board shall represent the two leading political parties, and in no case shall an appointment be so made as to have more than two members, including the city or town clerk, of the same political party".
2. The duties of the Board of Registrars of Voters are set forth in several statutes. At most I would recommend the language "The Registrars of Voters shall have the duties set forth in applicable provisions of the Massachusetts General Laws".

Please inform the members of the Charter and By-Law Review Committee.

John Flynn

From: John P. Flynn [jflynn@mhtl.com]
Sent: Wednesday, July 08, 2009 4:48 PM
To: 'Carol Gloff'
Cc: 'White, Martha'
Subject: By-Laws, Article 40

Carol:

My responses to the questions and comments of the Charter and By-Law Review Committee regarding Article 40 of the By-Laws are as follows.

1. I interpret the sentence to mean that the discharge is automatic unless Town Meeting votes to authorize the Committee to continue in existence.
2. No.
3. No comment at this time.
4. See item 5 below.
5. I recommend that the following language be inserted after the word "Secretary" in the next to last line of the first paragraph and after the word "Secretary" in the last line of the first paragraph: "or, in the absence of the Clerk or Secretary, by the Chair or the chair's designee".
6. There is no legal prohibition to such a requirement. The main issue appears to be practical, namely, whether the Town Clerk has the necessary space and resources.
7. I will defer to others on this question.
8. Same response as item 7.
9. Same response as item 7.

Please inform the members of the Charter and By-Law Review Committee.

John Flynn