

CHARTER AND BY-LAW REVIEW COMMITTEE MEETING

Wednesday July 1, 2009

VERSION 3

The Charter and By-Law Review Committee (CBRC) held a duly posted meeting on July 1, 2009 in the Edward Dlott meeting room in Town Hall. The Chair, Ms. Gloff called the meeting to order at 5:48 PM.

Members present: Mrs. Barbara Chinetti, Ms. Karen Adelman Foster, Ms. Carol Gloff (Chair), Mr. Robert Healey, Mr. Anthony Lista and Mr. Richard Sidney.

Members absent: Mr. Jay Ball

Others present: Ms. Martha White [Town Administrator], Mr. Frank Foss [Town Moderator], Mr. Robert Palmer [Collector/Treasurer] and Mr. Charles Panagopoulos [Comptroller].

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

Charter Article 5 CBRC Comments
Charter Article 6 CBRC Comments
By-Law Article 12 CBRC Comments
By-Law Article 23 CBRC Comments
By-Law Article 23A, draft by Ms. White
By-Law Article 41 CBRC Comments
By-Law Article 42 CBRC Comments
By-Law Article 43 CBRC Comments

Emails from John P. Flynn, Town Counsel, to Carol Gloff, dated July 1, 2009, Charter Article 5 (6:22 PM), By-Law Article 12 (4:51 PM), By-Law Article 23 (4:02 PM) and By-Law Article 41 (5:18 PM).

APPROVAL OF MINUTES

No action taken regarding approval of previous minutes.

DISCUSSION OF BY-LAWS

[Note: the chair in consolidated comment documents compiled Comments and questions from previous CBRC meetings. 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., and 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 referenced 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.]

[Note: co-Chair Mr. Sidney verbalized Mr. Flynn's comments for the attendees during discussion of the articles.]

BY-LAW 12
COLLECTOR OF TAXES

Heading: CG1 and JF1, CBRC questioned if Article 12 should be moved, as Article 12 is in the Elected Officials category and the Collector of Taxes is no longer elected in Natick. Town Counsel agreed the article should be moved for the reasons stated. A brief discussion ensued and Mr. Sidney made a motion to remove Article 12 from its current location and relocate it within the by-laws, as a new Article 21A, seconded by Ms. Adelman Foster; the committee voted 6-0-0 to approve the motion.

Section 1: CG2 and JF2, the CBRC questioned the use of the word "committed". Mr. Flynn commented that 'committed' is a statutory term.

Section 2: the committee determined to take no action.

Section 3: CG3 and JF3, the CBRC asked what does "due the Town" mean in this context? Mr. Flynn noted "Due the Town" is taken from the applicable statute. It means, "owned", or "due and payable".

Further discussion ensued regarding the wording of section three with many variations discussed and debated, after a long discussion no consensus was reached and no action recommended.

CG4 and JF4, the CBRC asked what types of accounts would be included in this section. JF4 (deferred to Mr. Palmer on the issue), after discussion no action taken by the committee.

Section 4: discussion regarding how this section is handled in practice with Mr. Palmer noting current practice does not fully comply with section. Discussion ensued with several options suggest to modify the section to reflect current practice and process, after long discussion Mr. Sidney made a motion seconded by Mrs. Chinetti, to revise revising the section to read as follows.

"Any account, which the Town Collector is unable to collect by ordinary efforts, may be referred by the Town Collector to Town Counsel. The Collector shall deliver to Town Comptroller a statement of any account not otherwise covered by this section".

Mr. Palmer and Mr. Panagopoulos, speaking in their capacities, upon review agreed with the rewording. The committee voted 6-0-0 to approve the motion.

Section 5: CG5 and JF5, the CBRC asked what happens when the Treasurer and the Collector are the same person? Mr. Flynn noted an internal transfer of money would be made.

CG6, the committee noted the term in line one "or oftener," Mr. Sidney moved, seconded by Ms. Adelman Foster to revise the original 'or oftener' to "more often". The committee voted 6-0-0 to approve the motion.

CG7 and JF6, the CBRC questioned the second sentence regarding bonding process. JF6 indicated the bond requirement is required by Massachusetts law and should not be change. The committee took no action.

CG8 and JF7, regarding the phrase ‘the Commissioner of Corporations and Taxation’ the CBRC asked is this still the correct title at the state level? JF7 commented the current title is the Commissioner of the Department of Revenue. Mr. Flynn indicated that if the Committee proceeds with such an amendment, he would recommend adding after the name of the position the words ‘or successor position’ to avoid the necessity of amending the By Law every time the Sate reorganizes the Department.

After discussion, Mr. Sidney moved, seconded by Ms. Adelman Foster to delete the term on line five (5) ‘Commissioner of Corporations and Taxation’ and substitute the phrase “Commissioner of the Department of Revenue or successor position”. The motion was approved by a 6-0-0 vote.

Section 6: the committee determined to take no action.

Section 7: CG9 and JF8, the CBRC asked if section 7 conflict with By-Law Article 43, Section1? JF8 indicated the two provisions address separate requirements, which do not conflict.

CG10 and JF9, committee member Ms Adelman Foster offered to draft a revision of this section, given its grammar problem. Mr. Flynn agreed to review any draft amendment of section 7 or of any other provision.

BY-LAW 41
CONTRACTS, TOWN PROPERTY, AND REGULATIONS
OF TOWN BAORDS AND OFFICIALS

Initially a long discussion of contracts in general ensued.

Section1: CG1 and JF1, the CBRC asked where are requirements for bonding and oversight covered in this by-law or other locations? JF1 indicated bonding requirements for municipal officials (e.g., Treasurer, Clerk and Constables) are found in the Massachusetts General Laws. Article 6, Section 6-4 of the Natick Home Rule Charter includes a bonding requirement for the Treasurer-Collector.

CG2 and JF2, the CBRC asked if dollar amounts can be changed (increased) under MGL? JF2 indicated the amounts are required by Massachusetts law and may not be changed unless the applicable law(s) is (are) changed.

CG3-6 and JF3-6, the questions and town counsel’s replies initiated a long debate and discussion centering on the poorly written section in its entirety. Town Administrator, Ms. White, offered to provide a draft re-write of the section and the committee agreed to review upon completion.

Section 2: the committee determined to take no action.

Section 3: CG7 and JF7, the CBRC questioned does MGL define who must sign off on contracts? JF7 stated no; the Town of Natick has the authority to adopt such provisions, as it has done in the Natick Home Rule Charter regarding the Town Administrator.

CG8 asked if everything in this paragraph is being done and/or should it be reworded to modernize it? JF8 deferred to others on the question. A discussion of various alternatives ensued, whereas Town Administrator, Ms. White, offered to provide a draft re-write of the section and the committee agreed to review upon completion.

Section 4: CG9 and JF9, the CBRC asked has this been followed for the high school building work? If not, is the School Department exempt from this requirement? JF9 deferred on question one but regarding the second question, the School Department is not exempt from the requirement. Further discussion ensued and Ms. Gloff is to verify with the Board of Selectmen that the process is being followed in the high school project. Ms. Adelman Foster indicated she would inquire with the school superintendent regarding the same questions.

Section 5: Ms White inquired if the CBRC can suggest raising the threshold? Ms. White will check with MGL to see if allowed and report back to the committee.

Section 6: CG10 and JF10, the term “published in the Town” appears in many areas of the by-laws, the CBRC questioned if we should change the word “published” to ‘circulated’? JF10 recommended changing “published” to read “of general circulation”. Mr. Sidney so moved, seconded by Mr. Healey and approved by the committee by 6-0-0 vote.

CG11-12 and JF 11-12, the CBRC asked if this is being done and should abutters be notified? JF11, deferred on the first part and on the second part JF12, noted the town is not legally required to notify abutters. The town has the authority to add such a requirement to the By Laws. Abutters could be notified without making it a By Law requirement. JF did not recommend the latter, because without such a requirement the notification of abutters could be done some, but not all, of the time, which would be discretionary, at best, and arbitrary, at worst.

After discussion, including the additional cost to the town to comply, the committee determined to take no action.

Section 7: a brief discussion in which the committee determined to take no action.

Section 8: CG14 asked is there still a state Director of the Bureau of Accounts? Mr. Palmer and Mr. Panagopoulos indicated the title is accurate.

Section 9: CG15 asked if this requires that a majority of the members of the FinCom sign off on each reserve fund transfer? Various town officials indicated no.

Section 10: the committee determined to take no action.

Section 11: CG16, asked if ballots are used and then the vote of each member is read out loud and the name of the member identified by the secretary/clerk, is this okay? After discussion no formal answer determined. CG17 asked if the filing of yearly schedule of regular meetings is being done? Few if any committees or boards know one year out their meeting schedule. Ms. Gloff indicated she would inquire with town counsel as to MGL requirements, etc.

Section 12: CG18, asked do we have the Town’s regulations in all of these town locations for the public to review? The Town Administrator indicated we do not know at this point but would check and inform the committee of her findings. CG19, the CBRC asked if the current list is comprehensive, should anything be added or deleted? Again, the Town Administrator will review and comment to the committee.

BY-LAW 23
THE FINANCE COMMITTEE

Section 1: a brief discussion regarding section 1.2 (Eligibility) it was suggested to revise the last sentence by deleting the words “four (4) terms or” with the last sentence to read, “No Finance Committee member shall serve for more than a total of twelve (12) years”. A motion for this change was made by ????? and seconded by ????, the committee voted 6-0-0 to accept the motion.

Section 2: CG1 and JF1, the CBRC asked if the town actually has an “Executive Secretary” and should we strike the word “Executive” in the section title and in the sentence. JF1 agreed if the position is “Secretary” and not of an ‘Executive Secretary’ then the By Law should so state. A motion for this change was made by ????? and seconded by ????, the committee voted 6-0-0 to accept the motion.

Section 4: CG2 and JF2, second sentence requirement of at least ten (10) days is in conflict with the Charter that requires a seven-day notice. JF2 agrees that the By Law should be consistent with the Charter. Mr. Sidney moved, seconded by Mr. Lista, to delete in line four (4) the phrase “ten (10)” and substitute “seven (7)”, the committee voted 6-0-0 to accept the motion.

Further discussion regarding the fourth (4th) sentence, Mr. Sidney offered a motion seconded by Mr. Healey to delete the words following Warrant, on the fourth (4th) line from the bottom, “and the approximate tax rate based on such recommendations” and to insert a period after the word Warrant. Discussion centered on the fact the Board of Selectmen set the tax rate and not the FinCom. The committee voted to approve the motion 6-0-0.

Section 5: the committee determined to take no action.

Discussion moved to proposed Article 23A, [CAPITAL PLANNING COMMITTEE], submitted by the Town Administrator. After a very long discussion with the Town Administrator, Town Moderator and members of the FinCom present, regarding the pro’s and con’s of such a committee, regarding the size of the FinCom and other topics, no action was taken by the committee.

CHARTER ARTICLE 5
FISCAL PROCEDURES

Section 5-2: CG1 asked for a definition of “sufficient”. JF1 found no legal definition of sufficient. Committee sensed term is deliberately vague.

There ensued a long discussion regarding intent, process and requirements of section 5-2. Among several key points discussed were; a re-writing of Charter 5-2 to reflect current MGL laws [Charter Section written before Proposition 2 ½, when schools were autonomous] section needs a re-write to reflect understanding of current MGL law, time lines should reflect backwards from Town Meeting dates, comments needed from the school superintendent, perhaps start with a Preliminary Budget that evolves into the Proposed Budget. Due to the nature of changing the Charter, the suggestion was made to effect most of the changes in the By-Laws and not the Charter and keep changes simple to the Charter.

The Town Moderator offered to take a shot at editing and revising Charter Article 5 and corresponding By Law Article 20, the committee agreed to review the edits upon completion, with the understanding of time constraints to prepare for fall Town Meeting.

Comments regarding Charter Article 5 by the CBRC and Town Counsel attached, but not herein highlighted due to the effort to re-write in its entirety Charter Article 5. No motions or votes taken by the committee.

CHARTER ARTICLE 6 ADMINISTRATIVE ORGANIZATION

The Committee at the time of the meeting had not received comments from Town Counsel regarding its' previous questions, so discussion ensued among attendees present.

Section 6-3 (Office of the Comptroller): many of the words and phrase used in the Charter are obsolete, awaiting legal implications of phrases from Town Counsel. Mr. Palmer suggested if the committee want to get date or time specific to do so in the By Laws and not attempt to do so in the Charter.

Mr. Palmer was asked to re-write section 6-3(a) and 6-3(b) and he agreed to deliver the edits to the committee.

Mr. Palmer specifically indicated regarding revision to Charter 6-4(b)(7), so noted by CG26 on page 6-4, to keep the original.

Other sections of Charter 6 waiting further comment upon response of town counsel.

OTHER DISCUSSIONS

The Chair indicated next weeks meeting [July 8, 2009] is in the School Committee room on the third floor of Town Hall.

The Chair indicated expected attendees (7/8/09) include the Town Clerk.

Future meeting July 15, 2009, expected to focus of DPW issues, with July 29, 2009 the school department revisited; these are subject to change depending on availability of department heads.

Motion to adjourn made by Ms. Adelman Foster and seconded by Mrs. Chinetti.

Meeting adjourned at 9:15 PM

Respectfully submitted by Bob Healey, CBRC member.

Minutes approved on July 15, 2009 by a vote of 5-0-0.

ARTICLE 5

FISCAL PROCEDURES

Section 5-1 Fiscal Year

The fiscal year of the town shall begin on the first day of July and shall end on the thirtieth day of June, unless another provision is made by general law.

Section 5-2 School Committee Budget

(a) Submission to Town Administrator - The budget as adopted by the school committee shall be submitted to the town administrator in sufficient time to enable him to consider its effect on the total town budget he is required to submit under this article.

(b) Public Hearing - At least seven days before the meeting at which the school committee is to vote on its final budget request, the school committee shall cause to be published in a local newspaper a general summary of its proposed budget. The summary shall specifically indicate any major variations from the current budget, and the reasons for such changes. The school committee shall also indicate the times and places at which copies of their complete draft budget are available for public examination, and the date, time and place, not less than seven days following such publication, when a public hearing will be held by the school committee on the proposed budget.

Section 5-3 Submission of Proposed Budget

Within a time fixed by by-law, before the date on which the representative town meeting is to meet in its spring session, the town administrator shall submit to the finance committee a proposed budget for the ensuing year, with an accompanying budget message and supporting documents. He shall, simultaneously, provide for the publication, as specified by by-law of a general summary of the proposed budget. The summary shall specifically indicate any major variations from the current fiscal year budget and the reasons for such changes. The notice shall also indicate the times and places at which complete copies of the proposed budget and accompanying materials are available for examination by the public.

Section 5-4 Budget Message

The budget message submitted by the town administrator shall explain the proposed budget for all town agencies, both in fiscal terms and in terms of work programs. It shall outline proposed financial policies of the town for the ensuing fiscal year; describe important features of the proposed budget; indicate any major variations from the current budget in financial policies, expenditures and revenues, together with the reasons for such changes; summarize the town's debt position; and it shall include such additional information as the town administrator deems desirable or the board of selectmen may reasonably require.

Section 5-5 The Proposed Budget

The proposed budget shall provide a complete financial plan of all town funds and activities, including the budget as requested by the school committee. Except as may otherwise

Comment [CG1]: BH asked for definition of "sufficient time".

Comment [KBA2]: I have heard a lot of speculation about what 5.2(a) means. More than one fincom member has told me that they believe it requires the SC to produce a voted budget well before the TA submits hers. My interpretation does not match this, but it's out there.

If this is truly the intent, there needs to be a conversation amongst the administrators and boards as to whether it's doable and/or in the interest of the town. But first we need to find out if it is truly the intent. So I request 5-2(a) be interpreted by Mr. Flynn.

Comment [CG3]: JB commented that this reads as if the School Committee has fiscal autonomy, but he did not suggest alternative wording.

Comment [CG4]: We need revised wording for this section so that it is accurate and doable. John Flynn and Martha, could you provide draft wording?

Comment [CG5]: BH commented on "in a local newspaper."

Comment [KBA6]: Add web site requirement?

Comment [CG7]: Is this being done - is a general summary being published in a local newspaper?

Comment [CG8]: JB asked if this is currently done. He thinks not.

Comment [CG9]: Is this referring to By-law Article 3, Section 2?

Comment [CG10]: M White commented that this is not typically being done.

Comment [CG11]: JB comments that this is not current practice.

Comment [CG12]: Should/could this be deleted?

Comment [KBA13]: Also lots of speculation as to what this means. Again several knowledgeable people have asserted to me that 5-5 requires the SC's budget to be adopted by the TA. Others have asserted that it means that the Sup't be allowed a separate opportunity to present TM with the SC's budget as adopted. I'll stay neutral on what is probable or desirable and just ask that we start with Mr. Flynn's opinion and take it from there. So John, we need your opinion here and possibly some revised wording.

be required by general law, or by the charter, the financial plan shall be in the form the town administrator deems desirable, or as the board of selectmen may require. In his presentation of the proposed budget, the town administrator shall make use of modern concepts of fiscal presentation so as to furnish a maximum amount of information and the best financial controls. The budget shall be arranged to show the actual and estimated income and expenditures for the previous, current, and ensuing fiscal years and shall indicate, in separate sections:

Comment [CG14]: BH asked, which takes precedence, form the TA deems desirable, or as the BoS may require?

- (a) Proposed expenditures for current operations during the ensuing fiscal year, detailed by town agency, function and work programs, and the proposed methods of financing such expenditures.
- (b) Proposed capital expenditures during the ensuing fiscal year, detailed by town agency, and the proposed methods of financing such expenditures.
- (c) Estimated surplus revenue and free cash at the end of the current fiscal year, including estimated balances in any special accounts established for specific purposes.

Comment [CG15]: JB asked for an example of "special accounts." Would these include enterprise funds, encumbrances and revolving accounts?

Section 5-6 Action on the Proposed Budget

- (a) **Public Hearing** - The finance committee shall forthwith, upon receipt of the proposed budget, provide for the publication in a local newspaper of a notice stating the date, time and place, not less than seven nor more than fourteen days following such publication, when a public hearing will be held by the finance committee on the proposed budget.
- (b) **Review** - The finance committee shall consider, in open public meetings, the detailed expenditures proposed by each town agency and may confer with representatives of any town agency in connection with its review and consideration. The finance committee may require the town administrator, or any other town agency, to furnish it with such additional information as it may deem necessary to assist it in its review of the proposed budget.
- (c) **Presentation to the Representative Town Meeting** - The finance committee shall file a report containing its recommendations for actions on the proposed budget which shall be available at least seven days prior to the date on which the town meeting acts on the proposed budget. When the proposed budget is before the town meeting for action it shall first be subject to amendment, if any, by the finance committee.

Comment [CG16]: JB asked what "available" means? In the hands of TM members?

Comment [CG17]: BH points out that this seems to conflict with By-law Article 23, Section 4, line 4 "at least 10 days in advance of town meeting..." Also, the charter and by-laws are inconsistent in how numbers are written - e.g., ten (10) days versus ten days.

Section 5-7 Capital Improvement Program

The town administrator shall submit a capital improvement program to the board of selectmen and to the finance committee at least thirty days prior to the date fixed by by-law for the submission of the proposed operating budget. The capital improvement program shall include, but need not be limited to the following:

Comment [CG18R17]: The committee agreed to leave this as 7 days here in the charter and perhaps modify the by-laws to match this. John and Martha, any problems with this approach?

- (a) A clear, concise, general summary of its contents.
- (b) A listing of all capital expenditures proposed to be made, by years, during the five fiscal years next ensuing, with supporting information as to the need for each such expenditure.

- (c) Cost estimates, methods of financing and recommended time schedules.
- (d) The estimated annual cost of operating and of maintaining any new facility or piece of major equipment involved.

The information is to be annually revised with regard to all items still pending, or in the process of being acquired, improved or constructed.

ARTICLE 6

ADMINISTRATIVE ORGANIZATION

Section 6-1 Organization of Town Agencies

The organization of the town into operating agencies for the provision of services and the administration of the government may be accomplished through either of the methods provided in this section.

- (a) **By-Laws** - Subject only to an express prohibition in a general law or this charter, the representative town meeting may, by by-law, reorganize, consolidate or abolish, create, merge or divide, alter the term of office, the manner of selection, or, if a multiple member body, the number of members of any town agency, in whole or in part, establish new town agencies and may prescribe the functions, powers, duties and responsibilities of any such town agency.
- (b) **Administrative Code** - The town administrator, after consultation with the board of selectmen, may from time to time, prepare and submit to the representative town meeting plans of organization, or reorganization of town agencies, as provided in Section 4-2 (16).

Whenever the town administrator prepares such a plan he shall, in conjunction with the board of selectmen, hold one or more public hearings on such proposal, giving notice by publication in a local newspaper at least ___ days in advance of the date, time and place of the public hearing, and the scope of the proposal.

The town administrator shall, following such hearing, provide for the submission of the proposed organizational plan, which may be amended or revised as a result of information developed at the public hearing, to be submitted to the next session of the representative town meeting. The authority of the representative town meeting concerning the proposed organizational plan shall be limited to the approval or the rejection of it; the representative town meeting shall not vote to amend or to alter the proposed plan.

- Comment [CG19]:** BH raised the question of a local newspaper. Is this required by MGL?
- Comment [CG20]:** Wording added by JB.
- Comment [CG21]:** Would addition of a comma after the word "hearing" be considered a substantive change and require a vote, or would it be considered correction of a typographical error?

Section 6-2 Table of Organization

The town administrator shall prepare, maintain and keep current a plan establishing the personnel staffing requirements for each town agency, except those under the jurisdiction of the school committee.

Comment [CG22]: BH asks, does this plan exist? If yes, where is it located? We understand it will be in the budget book; please confirm.

Section 6-3 Office of the Comptroller

(a) **Appointment; Qualifications; Term of Office** - There shall be a comptroller, appointed by and responsible to (reporting to?) the board of selectmen; the comptroller will work under the day-to-day supervision of the town administrator. The comptroller shall be a person especially fitted by education, training and experience, including not less than three years' prior full time accounting experience, to perform the duties of the office. The town may, by by-law, from time to time, establish such additional qualifications for the office as seem necessary or desirable; provided, however, no change in such by-law shall apply to the incumbent of the office at the

Comment [CG23]: John F, does MGL address any of this? Can you suggest appropriate wording?

time such by-law is adopted. The comptroller shall devote his entire time to the performance of his duties and the supervision of the employees of his department. The comptroller shall be appointed in June of every third year for a three-year term to run from the first day of the following July until the qualification of his successor. The comptroller may be removed for cause by the board of selectmen and the vacancy filled by it, in the same manner as an original appointment, for the remainder of the unexpired term.

(b) **Powers and Duties** - The comptroller shall have, in addition to the powers and duties conferred and imposed upon town accountants by general laws, the following powers and duties:

- (1) He shall prescribe the methods of installation and exercise supervision of all accounting records of the several town officers and agencies; provided, however, that any change in the system of accounts shall first be discussed with the town administrator, board of selectmen and the town agencies affected.
- (2) He shall establish standard practices relating to all accounting matters and procedures and the coordination of systems throughout the town, including clerical and office methods, records, reports and procedures as they relate to accounting matters. He shall, after discussion with the town administrator, prepare and submit rules, regulations and instructions relating thereto that, when approved by the board of selectmen, shall be binding upon all town agencies and employees.
- (3) He shall draw all warrants upon the town treasurer for the payment of bills, drafts and orders chargeable to the several appropriations and other accounts.
- (4) Prior to submitting any warrant to the board of selectmen, he shall examine and approve as not being fraudulent, unlawful or excessive, all bills, drafts and orders covered thereby. In connection with any such examination, he may make inspection as to the quality, quantity and condition of any materials, supplies or equipment delivered to or received by any town officer or agency. If, upon examination, it appears to the comptroller that any such bill, draft or order is fraudulent, unlawful or excessive, he shall immediately file with the board of selectmen and town treasurer a written report of the reasons for his findings.
- (5) He shall, under the general supervision of the town administrator, be in charge of all of the accounting and business machines owned by the town other than machines used for educational or classroom purposes, and shall allocate the use thereof among the several town agencies.
- (6) He shall be responsible for a continuous audit of all accounts and records of the town wherever located.

Comment [CG24]: JB asked: Doesn't this conflict with the duties (presumably described elsewhere) of the Town's Finance Director?

Comment [KBA25]: Question for Mr. Flynn: How does this overlap, if at all, or relate to matters on which SC has autonomy?

Comment [CG26]: If this section 2 is interpreted to be related to accounting, it's fine. It is only problematic depending on how broadly you interpret it.

Comment [CG27]: Martha will ask Bob/Fred to draft something as we think this wording needs some revision.

(c) **Vacancy** - If the comptroller is unable to perform his duties because of disability or absence, or if the office is vacant because of resignation or death, the board of selectmen may appoint a temporary comptroller to hold such office and exercise the powers and perform the duties until the comptroller who was disabled or absent resumes his duties, or until another comptroller is duly appointed. Said temporary appointment shall be in writing, signed by a majority of the board of selectmen and filed in the office of the town clerk.

(d) **Assistant Comptroller** - The comptroller with the approval of a majority of the board of selectmen, may appoint, in writing, an assistant. Unless a temporary comptroller is appointed, the assistant may, in the absence of the comptroller, perform the duties of the comptroller and when performing such duties shall have the same power and be subject to the same requirements and penalties as the comptroller.

Section 6-4 Office of the Town Treasurer - Collector

(a) **Appointment; Qualifications; Term of Office** - There shall be a town treasurer-collector appointed by the town administrator subject to confirmation of the board of selectmen for a term of three (3) years. Such appointment shall be based upon qualifications in the field of municipal finance. Minimum qualifications include a Bachelor’s Degree in Finance or equivalent and five (5) years experience in finance administration or equivalent.

(b) **Powers and Duties**

Treasurer:

- (1) The treasurer receives all money belonging to the town, and expends and accounts for it according to the order of the town or its authorized officers.
- (2) The treasurer is the custodian of all funds of the town, including other funds such as the stabilization fund, trust funds and tax titles.
- (3) The treasurer is responsible for making provision for adequate funds to cover current obligations. This includes managing the funds so that obligations such as payroll, bills, payment on bonds, and other remittances are paid in a timely manner.
- (4) The treasurer must know the municipality’s cash position on a daily basis. This is accomplished by daily depositing of all cash received and requires reconciliation of all bank accounts.
- (5) The treasurer is required to possess knowledge of the provisions of the pertinent sections of Massachusetts General Laws Chapter 60 regarding tax titles and tax foreclosures.
- (6) The treasurer is responsible for all borrowing and arrangement of the terms of borrowing. All borrowing requires the approval of the Board of Selectmen.
- (7) The treasurer shall be bonded annually for the faithful performance of required duties; the cost of the bond shall be born by the town.
- (8) The treasurer shall exercise all duties and responsibilities for treasurers as set forth in the Massachusetts General Laws.

Comment [KBA28]: Should there be a time element to the requirement of bank-account-reconciliation?

Comment [CG29R28]: JB asked: . On what basis? Weekly? Monthly?

Comment [CG30R28]: TL asked if there is anything in the Mass Financial Schedules that should/could be referenced here?

Comment [CG31]: Is “must give a bond” legal wording?

Collector: The following needs to be rewritten!

- (1) The Massachusetts General Laws, including without limitation Chapters 41, 44, 58, 59, 60, 60A and 80, authorize the means by which the collector is to collect and

Comment [CG32]: Several members thought the Collector section needed significant rewriting. Bob Palmer offered to look for some “boilerplate” wording.

enforce the collection of taxes. The collector shall attempt to compel payment by all available legal means of the taxes as levied or assessed by the proper authority. Regardless of from whom the taxes are due, the taxes are to be collected and accounted for in the manner decreed by law. The collector must avail himself of any statutory remedies to enforce the collection.

Comment [KBA33]: Probably a story or two behind this. It should suffice to say that taxes are to be collected and accounted for in the manner decreed by law, but it doesn't do harm to drive the point home by mentioning that this shouldn't be affected by who it is that owes the taxes.

(2) A collector must enforce collection under the powers conferred upon him or provided under the statutes.

Comment [CG34R33]: JB asked: What's being implied here?

(3) The collector is responsible for the collection and accounting of all unpaid fees and charges imposed by the Town that are reported to the Collector by the applicable Board, Department, or Officer.

Comment [KBA35]: Either require it or don't – original is an unenforceable-sounding commentary probably rich with history.

(c) **Vacancy** - If the treasurer-collector is unable to perform his duties because of disability or absence, or if the office is vacant because of resignation, death, or otherwise, the Town Administrator may appoint a temporary treasurer-collector to hold such office and exercise the powers and perform the duties of the treasurer-collector until the treasurer-collector who is disabled or absent resumes his duties, or until another treasurer-collector is duly appointed. Said temporary appointment shall be in writing, signed by the Town Administrator and filed with the Board of Selectmen and the office of the Town Clerk.

Comment [CG36]: This is written in a way too folksy and informal manner.

(d) **Assistant Treasurer-Collector** - The treasurer-collector with the approval of the Town Administrator, may appoint, in writing, an assistant. Unless a temporary treasurer-collector is appointed, the assistant may, in the absence of the treasurer-collector, perform the duties of the treasurer-collector, and when performing such duties shall have the same power and be subject to the same requirements and penalties as the treasurer-collector.

Comment [CG37]: JB suggested using only lower case for town administrator and board of selectmen.

ARTICLE 12

COLLECTOR OF TAXES

Comment [CG38]: This Article 12 should be moved, as Article 12 is in the Elected Officials category and the Collector of Taxes is no longer elected in Natick.

Section 1

The Collector of Taxes shall collect, under the title of Town Collector, all accounts due the Town which are committed to him.

Comment [CG39]: This is a taxation term, correct?

Section 2

The aggregate annual compensation of the Collector of Taxes shall be limited to the amount of the appropriation therefor.

Section 3

Every department of the Town shall deliver to the Town Comptroller at least once in every month a separate statement of each account due the Town arising through any transaction with such department. Upon receipt of such statements of account the Town Comptroller shall commit such accounts to the Town Collector for collection. This section shall not apply to taxes and special assessments, licenses and permits issued or granted by the various departments of the Town, nor to costs and fees charged by said departments, nor to interest on investments of sinking or Trust funds.

Comment [CG40]: What does "due the Town" mean in this context?

Comment [CG41]: So what types of accounts would be included under this section?

Section 4

Any account committed by the Town Comptroller which the Town Collector is unable to collect by ordinary efforts may be referred by the Town Collector to the Town Comptroller or Town Counsel for instructions as to procedure. So far as permitted by law, any account or portion thereof may be abated by the department in which such account originated. The Town Comptroller shall be notified in writing of the abatement of any such committed account or portion thereof.

Section 5

The Town Collector shall, once in each week or more often, pay over to the Treasurer all money received by him during the preceding week or lesser period on every such account, including any sums received as interest on moneys received by him on such accounts and deposited in any bank. He shall give bond to the Town for the faithful performance of his duties in a form approved by the Commissioner of Corporations and Taxation and in such sum, not less than the amount that may be established by said Commissioner, as shall be fixed by the Selectmen and that the effective date thereof, after approval by the Attorney General, be determined by the Board of Selectmen.

Comment [CG42]: What happens when the Treasurer and the Collector are the same person?

Comment [CG43]: What does this really mean? Should this be changed? Are we really doing what this sentence says?

Comment [CG44]: Is this still the correct title at the state level?

Section 6

Except as otherwise provided by law or by by-law all charges and bills issued by the Town of Natick shall be due and payable within thirty (30) days from the date of issue. Interest on delinquent charges and bills shall accrue from the date of issue of such charge or bill at a rate

of interest which equals the rate of interest set forth in Chapter 59, Section 57 of the Massachusetts General Laws, as amended.

Section 7

The Town Collector shall, within 180 days of the end of the fiscal year, publish in the newspaper of general circulation in the Town of Natick, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local property taxes, assessments, or betterments in the aggregate of \$1,000 or more for not less than a six month period and that such party has not entered into a payment plan with the Tax Collector's office.

Comment [CG45]: Does this Section 7 conflict with Bylaw Article 43, Section 1?

Comment [CG46]: Ms Adelman Foster offered to draft a revision of this section, given its grammar problems, etc.

ARTICLE 23

THE FINANCE COMMITTEE

Section 1 Composition, Term of Office; Eligibility; Removal, Resignation

1.1 Composition, Term of Office - There shall be a Finance Committee, consisting of fifteen (15) citizens of the Town appointed by the Town Moderator for terms of three (3) years beginning July 1, so arranged that five (5) members are appointed each year.

1.2 Eligibility - Persons holding an elective Town office, except Town Meeting member or constable, and those serving on appointed committees or boards that have responsibility for issuing permits, approving expenditure of funds, or exercising final authority over any matter are not eligible to be Finance Committee members. Finance Committee members may serve on committees that advise decision-making Town agencies or Town Meeting. No Finance Committee member shall serve for more than four (4) terms or a total of twelve (12) years.

1.3 Removal or Resignation from Office - Any member of the Finance Committee who files for any Town elective office except that of Town Meeting member or constable shall cease to be a member of said Committee. Members may resign by sending a notice of resignation to the Finance Committee chairman, the Town Moderator, and the Town Clerk; and they shall resign when they are no longer eligible to be Finance Committee members.

Section 2 Executive Secretary

The Finance Committee may employ, subject to an appropriation therefor, an Executive Secretary.

Comment [CG47]: Is it really an Executive Secretary? Should we strike the word "executive" in the section title and in the sentence?

Section 3 reserved.

Section 4 Report, Recommendations

The Finance Committee shall consider all matters of business included within the articles of any warrant for a Town Meeting, and shall, after due consideration, report thereon, in print, its recommendation as to each article. The Finance Committee shall distribute its said report to each of the Town Meeting Members at least ten (10) days in advance of a Town Meeting, except where compliance with this provision would defeat the purpose of a Special Town Meeting. The said recommendations shall be those of a majority of the appointed Committee at the time of the vote, but this shall not be construed to prevent recommendations by a minority as such. The Committee Report shall also state the total amount of the appropriations recommended by them on the entire Warrant and the approximate tax rate based on such recommendations. Said report for the Annual Town Meeting shall also contain a statement of the doings of the Committee during the year, with any such recommendations or suggestions as it may deem advisable on any matters pertaining to the welfare of the Town.

Comment [CG48]: Should we make this 7 days to match the Charter?

Section 5 Audits

The Finance Committee shall have the authority at any time to investigate the books, accounts and management of any department of the Town, and to employ such expert and other assistance as it may deem advisable for that purpose, and the books and accounts of all departments and officers of the Town shall be open to the inspection of the Committee and any person employed by it for the purpose. The Committee may appoint subcommittees and delegate to them such of its power as it deems expedient.

Sections 6, 7, 8 deleted by Article 38 ATM 10/3/91

**ARTICLE 23A
AUDIT COMMITTEE**

Establishment of Audit Committee

There is hereby established an Audit Committee consisting of five members. Such members shall include: one (1) current member from each of the Board of Selectmen, Finance Committee and School Committee, appointed as determined by the Chair of the respective board or committee; plus two (2) at-large members appointed by the Board of Selectmen. The at-large members shall not be a member of another board or committee, or an officer, official or paid employee of the Town. All members of the Audit Committee shall have, at a minimum, a working familiarity with basic finance and accounting practices; appointments should be made to provide that at least two members of the Audit Committee be Certified Public Accountants or otherwise have accounting or related financial management expertise; ideally that expertise shall be in municipal or not-for-profit finance.

Audit Committee members appointed by the Board of Selectmen shall serve for a term of two (2) years, except that one (1) of the initial appointees shall serve for a term of three (3) years, thereby providing that one such member's term will expire on an annual basis. All other members shall serve a term of one (1) year. Any vacancy occurring in the Audit Committee shall be filled by the appropriate appointing authority for the balance of the unexpired term. Terms shall coincide with the fiscal year, i.e. effective July 1 and expiring June 30, to correspond with the period of time for which the town's audits are conducted.

At the first meeting after the start of each new fiscal year, the Audit Committee shall conduct an organizational meeting to elect from its members a chair, a vice-chair and a secretary.

Role of Audit Committee

The Audit Committee shall serve as advisor to the Board of Selectmen with respect to the town's internal auditing, financial systems and independent annual audit. Specific duties shall include, but are not limited to, the following:

- (1) Make recommendations to the Board of Selectmen on the selection of, and scope of services for, an independent auditor.
- (2) Review the annual financial statements and management reports and make recommendations with respect thereto.
- (3) Make recommendations for areas of operations where expanded scope audits or review of the internal controls may be appropriate. Note that this provision is not intended to conflict with or supersede similar authority of the Finance Committee under Article 23, section 5 of the Town By-Laws.
- (4) Review and make recommendations with respect to the Town's internal auditing and financial controls; through the Town Administrator, review with appropriate boards and departments' opportunities to improve such controls.
- (5) Report to the Board of Selectmen on the status of recommendations the Committee, town financial staff and/or independent auditor has made during the preceding twelve months.
- (6) Submit a summary of their work for the preceding calendar year for inclusion in the Town's Annual Report.

ARTICLE 41

CONTRACTS, TOWN PROPERTY, AND REGULATIONS
OF TOWN BOARDS AND OFFICIALS

Section 1 Procedures for Award of Contracts

No contract for the purchase of services, equipment, supplies or materials, the actual or estimated cost of which amounts to five thousand dollars (\$5,000.00) or more, but less than twenty-five thousand dollars (\$25,000.00), shall be awarded unless proposals for the contract have been invited from no less than three (3) vendors, contractors or other qualified persons. Administrative procedures for seeking such proposals shall be established by the Town Administrator except the administrative procedures for seeking proposals for the purchase of equipment and services other than School Department equipment, shall be under the jurisdiction of the Central Equipment Purchasing Committee. The Town of Natick shall reserve the right to reject any or all such proposals.

Comment [CG49]: Where are requirements for bonding and oversight covered, in this by-law or other location(s)?

Comment [CG50]: Can these be changed (that is, increased), under MGL?

Comment [CG51]: There is no Central Equipment Purchasing Committee at this time, so this sentence needs to be revised. Martha or John Flynn, please edit. Thanks.

Comment [CG52]: Can these be changed (that is, increased), under MGL?

No contract for the purchase of services, equipment, supplies or materials, the actual or estimated cost of which amounts to twenty-five thousand dollars (\$25,000.00) or more, shall be awarded unless proposals for the contract have been invited by advertisement in at least one newspaper, published or circulated in the Town of Natick, such publication to be at least seven (7) days before the time specified for the opening of said proposals. Such advertisement shall state the place where plans and specifications for proposed work or purchases may be obtained and the time and place at which proposals will be opened, and shall reserve to the Town of Natick the right to reject any or all such proposals.

All proposals shall be opened in public.

No contract, and no purchase, service or work for which a contract is proposed, shall be split or divided for the purpose of evading any provision of this section.

Comment [CG53]: John, can we just make this a new paragraph or does it require a vote of TM?

This section shall not apply to professional services, or to services performed by a person regularly employed by the Town as part of the duties of such employment. This section shall apply to architectural consulting services and engineering consulting services for which no procurement process is required by Massachusetts law.

Comment [CG54]: Why is this sentence here? Martha or John F?

Section 2 Emergencies

The Selectmen may exempt a purchase or contract from any or all of the provisions of the preceding section when, in their opinion, an emergency exists requiring immediate action on such purchase or contract to protect the health and safety of persons or property, or when no reasonably suitable substitute can be obtained for the article or service to be purchased or contracted for. Evidence indicating that such an emergency exists, or that no reasonable substitute for a purchase or service can be obtained shall be furnished to the Selectmen in writing by the officer, board, or committee making such purchase or contract, and shall be kept on file with other records of such transactions.

Section 3 Contract Files

Comment [CG55]: Does MGL define who must sign off on contracts?

Every Town board, official, employee or committee making or executing a contract on behalf of the Town shall furnish said contract or a copy thereof to the Town Comptroller within ten (10) days after its execution; and the Town Comptroller shall keep such contract or copy on file, open to public inspection during business hours. Such contracts or copies shall be kept in a book by themselves or in several books, arranged according to the subject of the contract, or in other convenient form, and an index to the subject matters of the contracts and to the names of the contractors shall be made semiannually, and shall be open to public inspection in some convenient form. All allowances under and additions to such contracts, or copies thereof, shall be filed with the Town Comptroller, together with a sworn statement of the person or persons authorizing such allowances or additions that the same are correct and in accordance with the contract.

Comment [CG56]: Is everything in this paragraph being done? Should it be reworded to modernize it?

Section 4 Compensation of Town Officers and Employees

No Town officer and no salaried employee of the Town shall receive any compensation or commission for work done by him for the Town, except his official salary and fees allowed by law, without permission of the Selectmen expressed in a vote which shall appear on their records with the reasons therefor.

Comment [CG57]: Has this been followed for the high school building work? If not, is the School Department exempt from this requirement? If not, we need to follow this.

Section 5 Disposal of Property

Whenever any property of the Town, other than real estate, the replacement value of which exceeds fifty dollars (\$50.00), shall have become obsolete, disused, worn out or necessary to replace, the Town official or officials having jurisdiction thereof shall so certify in writing to the Board of Selectmen who may reserve action relative to its disposal for consideration of a Town Meeting or may by vote authorize the official or officials to abandon, to trade, or to sell such property at a private or public sale.

Section 6 Sale of Tax Title Land

The Selectmen and Town Treasurer may sell at public auction and in such manner, upon such terms and for such consideration as in their judgment is for the best interest of the Town, lands held from time to time by the Town under tax titles the right of redemption from which has been foreclosed. Notice of such sales shall be advertised at least once in a newspaper published in the Town no less than fourteen (14) days prior to the date of the sale, and such notice shall include the location of such lands by street address or comparable description. The Conservation Commission and the Historical Commission of the Town shall be notified of such sale at the time that the advertisement is prepared.

Comment [CG58]: We don't think any newspapers are currently "published" in the town. Change the word "published" to "circulated"?

Comment [CG59]: Is this being done?

(For more precise requirements on such sales, see Mass. Gen. Laws, Chapter 60, Sections 37-84A.)

Comment [CG60R59]: Should abutters be notified? Could abutters be notified without adding it to the by-law?

Section 7 Designation of Town Vehicles

All automobiles and other vehicles owned by the Town shall be so designated by a circular label not less than six (6) inches in diameter bearing the words "Town of Natick" and the

name of the Department, with the exception of those vehicles exempted from this by-law by the Board of Selectmen.

Comment [CG61]: Has the BoS exempted any such vehicles? Does this require that individual specific vehicles each be exempted or can a class of vehicles be exempted?

Section 8 Annual Audit

There shall be an annual audit of the accounts of the Town under the direction of the Director of the Bureau of Accounts of the Commonwealth of Massachusetts.

Comment [CG62]: Is this still accurate? Is there still a state Director of the Bureau of Accounts?

Section 9 Authorization for Expenditure of Funds

The Town Comptroller shall not approve for payment any warrant for the expenditure of public funds unless there shall appear thereon the signatures of at least a majority of the Town board, commission, or committee authorized to make expenditures.

Comment [CG63]: Does this require that a majority of the members of the FinCom sign off on each reserve fund transfer?

Section 10 Fees Paid to the Town

All Town officers except constables shall pay into the Town Treasury all fees received by them by virtue of their office.

Section 11 Compliance with Open Meeting Law

All meetings of Town boards, commissions, committees, and subcommittees, elected, appointed or otherwise constituted, shall be in accordance with the provisions of Section 7-9 of the Charter and Sections 23A through 23C of Chapter 39 of the General Laws. In addition, in any matter requiring a vote of the Board, the vote shall be by voice or roll call and no secret or written ballots shall be used.

Comment [CG64]: If ballots are used and then the vote of each member is read out loud and the name of the member identified by the secretary/clerk, is this okay?

All elected boards and committees shall notify the Town Clerk of their organization, rules and regulations and shall file with him a yearly schedule of regular meetings. The Town Clerk shall be notified of changes in or additions to the meeting schedule not less than forty-eight (48) hours before the meeting concerned.

Comment [CG65]: Are we doing this?

Appointed standing committees shall meet as required by their duties and shall notify the Town Clerk not less than forty-eight (48) hours before any meeting.

No portion of this section shall apply to any Committee or individual designated or appointed for purposes of collective bargaining pursuant to the General Laws 149, Section 1781.

Section 12 Availability of Regulations

Up-to-date copies of all regulations adopted by the Town, as listed in the table entitled "Town Regulations," which appears at the end of this article and is incorporated into this section by reference, shall be available for review by the public in the office of the official responsible for publication, in the office of the Town Clerk, and in the Morse Institute library.

Comment [CG66]: Do we have the Town's regulations in all of these locations for the public to review?

Whenever changes to regulations are adopted, the responsible official shall either publish a complete new edition or provide a package of change pages. If packages of change pages are provided, the pages shall be marked with a distinguishing date or a change number, and a list of

current pages shall be included so that other persons can accurately update copies in their possession.

ARTICLE 42

LICENSES

Section 1

License and Registration fees for storage of gasoline, petroleum products, or inflammable fluids, including fuel oils, for sale and for other than the applicant's own use, shall be as follows:

Licenses Fees

(1) Not over 2,000 gallons	\$ 35.00
(2) Each additional 1,000 gallons or part thereof	5.00
(3) Maximum license fees	150.00

Comment [CG67]: The CBRC asks why a few fees are specified in this by-law? Is this required by MGL? If not, why are these here?

Registration fees

one-half (1/2) of the license fees

Section 2

Every person before commencing business in the Town as a transient vendor, whether as principal or agent, shall make written application under oath, for a Town license to the Board of Selectmen and upon payment of a license fee fixed by it in compliance with Chapter 101 of the Massachusetts General Laws, shall be issued a license, provided, however, that said transient vendor comply with the regulations of the Board of Selectmen.

ARTICLE 43

LICENSES AND PERMITS OF DELINQUENT TAXPAYERS

Section 1 Report of Delinquent Taxpayers and Subject Property

The tax collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the tax collector, shall annually furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement of such tax or pending petition before the appellate tax board, and a list of properties for which such taxes, fees, assessments, betterments or other municipal charges have not been paid.

Comment [CG68]: Would Town Counsel please compare this to By-law Article 12, Section 7 to see if they are in conflict? The CBRC is not certain and think we need a legal opinion. Thanks.

Section 2 Denial, Revocation, or Suspension of Licenses and Permits

The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the tax collector; provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension.

The Building Inspector or Community Development Department may deny an application for a permit regarding property which appears on said list of properties for which a tax, fee,, assessment or other municipal charge has not been paid. Said list shall be prima facie evidence for denial of said license or permit application of any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license or permit.

Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the tax collector that the party is in good standing with respect to any and all local taxes, fees assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate, or that all local taxes, fees, assessments, betterments or other municipal charges have been paid to the municipality as of the date of issuance of said certificate, as applicable.

Comment [CG69]: Do they have to have everything paid up to the town, or just any bills that were over 1 year old?

Section 3 Payment Agreements

Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or

permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

Section 4 Waiving of Penalty by Board of Selectmen

The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in section one of chapter two hundred and sixty-eight in the business or activity conducted in or on said property.

Section 5 Exclusions

This by-law shall not apply to the following licenses and permits: open burning, section thirteen of chapter forty-eight; bicycle permits, section eleven A of chapter eighty-five; sales of articles for charitable purposes, section thirty-three of chapter one hundred and one; children work permits, section sixty-nine of chapter one hundred and forty-nine; clubs, associations dispensing food or beverage license, section twenty-one E of chapter one hundred and forty; dog licenses, section one hundred and thirty-seven of chapter one hundred and forty; fishing, hunting, trapping license, section twelve of chapter one hundred and thirty-one; marriage licenses, section twenty-eight of chapter two hundred and seven; and theatrical events, public exhibition permits, section one hundred and eighty-one of chapter one hundred and forty.

From: John P. Flynn [jflynn@mhtl.com]
Sent: Wednesday, July 01, 2009 6:22 PM
To: 'Carol Gloff'
Cc: 'White, Martha'
Subject: Charter, Article 5
Carol:

In my opinion, the answers to the Committee's questions are as follows.

1. We find no legal definition of "sufficient". I recommend that the Committee refer to the Webster's Third Dictionary synonyms: "enough, adequate, competent".
2. I interpret the words "the budget as adopted by the school committee" in Section 5-2(a) to mean a budget which is voted by the School Committee. Under the Open Meeting Law, in order for a budget to be adopted by the School Committee, it must be voted by the School Committee.
3. In my opinion, this provision does not confer fiscal autonomy upon the School Committee. However, Chapter 71, Section 34 of the Massachusetts General Laws provides that Town Meeting shall vote on the total amount of the appropriation requested for the School budget and shall not allocate appropriations among accounts or place any restriction on such appropriations.
4. When the affected parties determine what is doable, I will be happy to draft language to accomplish that purpose.
5. In lieu of "in a local newspaper" I recommend "in a newspaper of general circulation in the Town of Natick".
6. A requirement to publish on the Town of Natick web site would be legally permissible.
7. I defer to others on this issue.
8. Same answer as item 7.
9. In my opinion, this refers to Article 20, Section 2 of the By Laws.
10. No comment.
11. No comment.
12. There is no legal requirement to delete this sentence or to include this sentence.
13. In my opinion, the wording of the first sentence means that the material included with the proposed budget submitted by the Town Administrator shall include the budget requested by the School Committee. In my opinion, the wording of the second sentence means that the financial plan presented by the Town Administrator may agree with the budget voted by the School Committee, or may vary from that budget. If the Committee wishes to propose an amendment to this Section, I will be available to draft the warrant article.
14. In my opinion, this language gives the board of Selectmen the authority to require a form of financial plan which is different from that desired by the Town Administrator.
15. "Special accounts" includes enterprise funds, revolving funds, gift accounts, trust funds, fee accounts like the Wetlands Protection Fee Accounts, etc.
16. In my opinion, "available" does not mean in the hands of the members, it means that the members have the opportunity to read it or to obtain a copy.
17. The comment is correct. An additional difference is that the Charter requirement is for the report to be available at least seven days prior to the date on which Town Meeting acts on the proposed budget, and the By Law requirement is that the report be distributed to Town Meeting members at least ten days in advance of Town Meeting. There is no legal problem with amending the By Law provision to be consistent with the charter provision.

Please inform the members of the Committee.

John Flynn

From: John P. Flynn [jflynn@mhtl.com]
Sent: Wednesday, July 01, 2009 4:51 PM
To: 'Carol Gloff'
Cc: 'White, Martha'
Subject: By Laws, Article 12
Carol:

My response to the questions and comments follows.

1. Article 12 should be moved for the reasons stated.
2. Committed is a statutory term.
3. "Due the Town" is taken from the applicable statute. It means "owed", or "due and payable".
4. I would defer to Bob Palmer on this issue, but I believe that water and sewer accounts would be included.
5. An internal transfer of the money would be made.
6. The bond requirement is required by Massachusetts law and should not be changed.
7. The current title is the Commissioner of the Department of Revenue. If the Committee proceeds with such an amendment, I would recommend adding after the name of that position the words "or successor position" to avoid the necessity of amending the By Law every time that the State reorganizes the Department.
8. There is no conflict, in my opinion. The two provisions address separate requirements which do not conflict.
9. I would be happy to review nay Committee draft amendment of Section 7, or of any other ovision.

Please inform the members of the Committee.

John Flynn

From: John P. Flynn [jflynn@mhtl.com]
Sent: Wednesday, July 01, 2009 4:02 PM
To: 'Carol Gloff'
Cc: 'White, Martha'
Subject: By Laws, Article 23
Carol:

In my opinion, the answer to question 1 is that if the position is Secretary, not Executive Secretary, the By Law should so state, and the answer to question 2 is that the By Law provision should be consistent with the Charter provision, which presently provides that the report of the Finance Committee shall be available at least seven days prior to the date on which town meeting acts on the proposed budget.

John Flynn

From: John P. Flynn [jflynn@mhtl.com]
Sent: Wednesday, July 01, 2009 5:18 PM
To: 'Carol Gloff'
Cc: 'White, Martha'
Subject: By Laws, Article 41
Carol:

My answers to the Committee's questions and comments are as follows.

1. Bonding requirements for municipal officials (e.g., Treasurer, Clerk, and Constable) are found in the Massachusetts General Laws. Article 6, Section 6-4 of the Natick Home Rule Charter includes a bonding requirement for the Treasurer-Collector.
2. The amounts are required by Massachusetts law and may not be changed unless the applicable law(s) is (are) changed.
3. In lieu of the Central Equipment Purchasing Committee, I recommend the "Board of Selectmen or Town Administrator, as applicable". The Town Administrator is responsible for the purchase of supplies, materials and equipment. The Board of Selectmen is responsible for construction contracts and c for the purchase of services.
4. Same answer as item 2 above.
5. The present text and format was voted by Town Meeting. Any change in the text or the format should be voted by Town Meeting.
6. As I recall, the reason is to allow for the possibility that some of those services would otherwise be exempt from a procurement process if they do not meet the minimum dollar threshold in the designer selection statutes.
7. No. The Town of Natick has the authority to adopt such provisions, as it has done in the Natick Home Rule Charter regarding the Town Administrator.
8. I will defer to the others on this question.
9. I will defer to others on the first question. Regarding the second question, the School Department is not exempt from this requirement.
10. I recommend changing "published" to read "of general circulation".
11. I will defer to others on this question.
12. The Town is not legally required to notify abutters. The town has the authority to add such a requirement to the By Laws. Abutters could be notified without making it a By Law requirement. I don't recommend that procedure, because without such a requirement the notification of abutters could be done some, but not all, of the time, which would be discretionary, at best, and arbitrary, at worst.

Please inform the members of the Committee.

John Flynn