

Town of Franklin

355 East Central Street
Franklin, Massachusetts 02038-1352



Phone: (508) 520-4949
www.franklinma.gov

OFFICE OF THE TOWN ADMINISTRATOR

October 27, 2023

To: Town Council
From: Jamie Hellen, Town Administrator
Amy Frigulietti, Deputy Town Administrator

RE: Town Charter Presentation

The Town Administrator and Town Attorney will offer a brief presentation and overview on the Town Charter. This presentation and discussion has been a Town Council goal and we are getting it done just in the nick of time!

We have attached the Town's Charter Commission reports from 1984 and 1995, which extensively reviewed the town charter twice after the 1978 charter reform. It is worth noting that the last time the Town Charter was changed was in 2013 to request an appointed Treasurer-Collector rather than an elected Treasurer-Collector.



1984

franklin

charter

commission

final report

FRANKLIN CHARTER COMMISSION

FRANKLIN, MA 02038

BALLOT QUESTIONS AND SUMMARY:

Shall this town approve the charter revision recommended by the charter commission, summarized below:

YES : ☐

NO : ☐

SUMMARY: The proposed charter revision would institute the following changes: (1) a board of selectmen, to consist of five persons to be elected for overlapping terms of three years each, would be re-established; (2) the existing town council consisting of five members at-large and two members from each precinct would be replaced by a representative town meeting to consist of one hundred ninety-eight members, thirty-three to be elected from each of the six precincts for overlapping terms of three years each; and (3) the planning board and the Franklin housing authority, now filled by appointment of the town administrator, would be filled by election of the town's voters.

TABLE OF CONTENTS

INTRODUCTORY & SUMMARY		i - vii
ARTICLE I INCORPORATION & POWERS		2
Section 1.1	Incorporation	2
Section 1.2	Short Title	2
Section 1.3	Powers	2
Section 1.4	Construction	2
Section 1.5	Intergovernmental Relations	2
ARTICLE II REPRESENTATIVE TOWN MEETING		2
Section 2.1	Establishment Composition	2
Section 2.2	Eligibility: Nomination Procedures	2
Section 2.3	Establishment of Precincts	3
Section 2.4	Election & Terms	4
Section 2.5	Compensation	5
Section 2.6	Time of Meeting	5
Section 2.7	Presiding Officer	5
Section 2.8	General Powers & Duties	5
Section 2.9	Vacancies: Filling of Vacancies	5
Section 2.10	Clerk of the Meeting	6
Section 2.11	Procedures	6
Section 2.12	By-Laws	8
Section 2.13	Availability of Town Officials at Town Meetings	8
Section 2.14	Referendum Procedure	9
ARTICLE III ELECTED OFFICIALS		9
Section 3.1	General Provisions	9
Section 3.2	Board of Selectmen	12
Section 3.3	School Committee	13
Section 3.4	Board of Assessors	13
Section 3.5	Town Clerk	14
Section 3.6	Town Treasurer-Collector	14
Section 3.7	Board of Health	14
Section 3.8	Constables	15
Section 3.9	Moderator	15
Section 3.10	Planning Board	15
Section 3.11	Franklin Housing Authority	16
ARTICLE IV TOWN MANAGER		16
Section 4.1	Employment Qualifications	16
Section 4.2	Powers & Duties	17
Section 4.3	Vacancy	18
Section 4.4	Removal	18

ARTICLE V	ADMINISTRATIVE ORGANIZATION	19
Section 5.1	Creation of Departments, Divisions, Agencies & Offices	19
Section 5.2	Personnel Plan	20
Section 5.3	Publication of Administra- tive Code & Personnel Plan	20
Section 5.4	Merit Principal	21
Section 5.5	Public Works Department	21
Section 5.6	Town Counsel	21
ARTICLE VI	FINANCES & FISCAL PROCEDURE	21
Section 6.1	Fiscal Year	21
Section 6.2	Submission of the Budget & Budget Message	21
Section 6.3	Budget Message	22
Section 6.4	The Budget	22
Section 6.5	Action on the Budget	22
Section 6.6	Capital Improvement Program	23
ARTICLE VII	CHARTER PROVISIONS	23
Section 7.1	Charter Changes	23
Section 7.2	Severability	23
Section 7.3	Specific Provisions Shall Prevail	23
Section 7.4	Computation of Time	23
Section 7.5	Number & Gender	23
Section 7.6	Definition	24
Section 7.7	Re-enactment & Publication of By-Laws	24
Section 7.8	Procedures	25
Section 7.9	Rules & Regulations	26
Section 7.10	Elections	26
Section 7.11	Removals & Suspensions	26
Section 7.12	Notice of Vacancies	27
ARTICLE VIII	TRANSITIONAL PROVISIONS	27
Section 8.1	Continuation of Existing Laws	27
Section 8.2	Continuation of Govern- ment	28
Section 8.3	Transfer of Records & Property	28
Section 8.4	Continuation of Personnel	28
Section 8.5	Time of Taking Effect	28

FINAL REPORT OF THE FRANKLIN CHARTER COMMISSION
TO THE VOTERS OF FRANKLIN

Explanation of Proposed Charter

The charter revision recommended by the charter commission represents an abandonment of the experimental form of government adopted by the town at the town election in 1978 and a reversion to a proven system more closely related to that which had been in effect in Franklin for the two hundred years from 1778 to 1978.

A majority of the charter commission members (six of nine) believe that experience has shown that the citizens have lost their representation and the radical change in structure under which we have operated for the past five years has proven to be ill-conceived, costly, and unwise and that the best interest of the town at-large has not been served by this new form.

We recognize that our former system had its flaws and that the current system was adopted in an effort to respond to the problems which then existed, the majority of the charter commission is of the opinion, however, that the changes were too sweeping in scope.

Our recommendation, in essence, is that we return to the system of government we had prior to 1978, that the board of selectmen be increased from three to five members, that the board appoint a full-time professional town manager to administer the day to day business of the town (but subject to policy guidelines established by the board of selectmen), and that a limited town meeting of approximately one hundred ninety-eight voters be established.

The majority of the members of the charter commission believe that more problems have arisen as a result of the change which has taken place than were existing under the previous form of government.

The final charter which is being published herewith reflects our best judgment of those changes in government structure which are needed and which offer more power and more opportunity for citizen's participation. This charter appears to be desirable at this time and will probably have general support in the town.

Major Differences

Under current charter the administrator is under very few restraints. He is free to do as he pleases, and the fact is-he has pleased very few. He has pleased special interest groups and responded to political interests rather than acting in the town's best interest.

Under our proposal, he will be subject to scrutiny of the board of selectmen. He will not have the freedom to do as he pleases, he will have to have the support of the board of selectmen. The charter will provide for a greater separation of powers; the town manager and the selectmen will represent the executive/administrative branch, the town meeting representatives will represent the legislative branch. The town meeting, we believe, will far more adequately express the will of the town's voters than the unresponsive town council has done.

The town will be divided into six precincts and each precinct will elect thirty-three representatives to form a town meeting representative body of one hundred ninety-eight members. The purpose of establishing district organizations is to provide for a more informed and responsive body of town representatives.

At the present time, the planning board is appointed by the town administrator and is not responsive to the needs of the citizens and lacks credibility. The planning board has not protected the resources and needs of the town and continues to demonstrate a discriminatory attitude towards its citizens. The proposed charter would provide a remedy for this situation and require that the planning board be elected, and therefore, accountable to the voters.

Under this form, the town meeting representatives vote on all appropriations, zoning, and other related matters. In the event the representative town meeting acts to adopt or reject an item in a warrant, the voters will have an opportunity to appeal that action to a special election of all the town voters. The charter requires that within seven days a petition, signed by not less than five percent of the voters, be submitted to the board of selectmen requesting that any question as voted by the representative town meeting be referred to the voters for a final determination at a special election.

Certain procedures relative to posting agendas for meetings, and the filing of copies of the minutes of meetings are provided to assure greater citizens' access to the work of their officials.

The town manager is responsible to prepare a comprehensive budget for the board of selectmen, finance committee and the town meeting which includes a long term capital expenditure program for the town.

Areas of Concern not Included in this Charter

A number of areas of government have been brought before the commission by various people. The commission concluded that it would be more appropriate for these areas to be treated with by-laws and has

provided for a special commission on transition to review all of the town's by-laws and ordinances in order to bring them into conformity with the new charter. The commission has prepared proposed by-laws which will provide for a Permanent Building Committee, a Noise Control/Pollution Committee, a Grants Committee, a Capital Planning Committee, and a Personnel Board.

Conclusion:

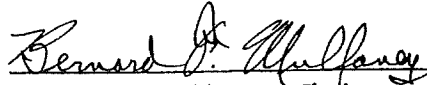
The charter commission is indeed grateful to the many members of the town's official family for the cooperation and courtesy extended to us over the past year. We recognize that not every voter will agree with every item which is contained in the proposed charter.

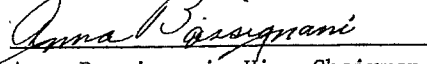
Although all members of this commission have not seen the needs of the town government structure and form in the same way, these differences of opinions have not, in any way, interfered with the final recommendation of this commission.

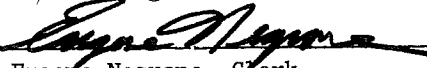
The commission is strong in its belief that the charter is tailor-made for the needs of our town and reflects the sentiment of a majority of our citizens. We hope that you will agree with us that the recommendation represents a proven and long range solution to the management of our government affairs. This charter will provide citizens' representation for the next several decades. We believe that the provisions of this charter balance the requirements of an accountable, efficient government with democratic principals still being maintained.

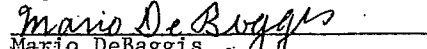
We urge you to accept our recommendations and to vote to accept this charter.

FRANKLIN CHARTER COMMISSION

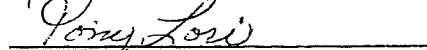

Bernard F. Mullaney, Chairman


Anna Bassignani, Vice-Chairman


Eugene Negrone, Clerk


Mario DeBaggis


Nicholas Giardina


Tony Loxi

January 12, 1984

To Bernard F. Mullaney
Chairman, Charter Commission

From: Randall J. Gasbarro

Subject: Minority Report

I am filing this report for the citizens of the Town of Franklin, regarding this drastic charter removal, with subsequent substitution of an inferior composition. Such an adoption must not be recommended for our rapidly growing community, as could only set back this town decades.

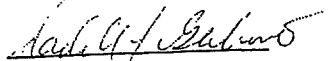
The main objective of the majority of the commission was to give back the running of the town government to the people. A concern shared by every registered voter in Franklin. Such the objective has not been accomplished by reverting back to a Selectman/Representative Town Meeting form of government. It is this commissioners opinion, that as our present charter stands, the Town Administators position has inherited excessive powers. Instead of delegating such power back to the people, this proposal merely shifts this control over to a simple majority of three selectman all elected at large. At least our present charter has built in checks and balances, none of which will exist if this composition is approved by the voters. An example of such, could be, that if this Administator sees fit to abuse his authority, a simple majority of the Council vote could remove him. However, if the same scenerio were to occur, with these three at-large Selectman, it would take a tremendous costly, time consuming effort realized by both a large number of voters and the towns budget, which still might not rectify an already embaressing situation. Though this proposal does provide for 198 precinct representatives to decide issues once maybe twice annually, with such an incredibly low quorum requirement theres no mandate even expecting their attendance.

Rather than to continue going into more specifics of this proposal you are emphatically urged to read and reread this proposed

demise of the Town Council concept which has proved to be a far more efficient, and fiscally superior government which meets our present day family situations. Once thoroughly reviewed, you will also come to the overwhelming conclusion that this proposal does lack an adequate system of checks and balances, along with a large number of built in contradictions.

I therefore submit for the people of Franklin and the Charter Commission, this strong opposition to this inferior composition and make this minority report regarding such matters.

Randall J. Gasbarro


Charter Commission Member

cc. Bernard F. Mullaney, Chairman Charter Commission
Charter Commission Members

MINORITY REPORT

To the Citizens of Franklin:

The Charter Commission has held some 24 meetings, 2 public hearings and 1 man-on-the street interview. All of our meetings were open to the public. The 2 public hearings were well publicized and the last one, held in December, received widespread notice through the distribution of a printed preliminary report to several thousand of our households via 2 daily newspapers having widespread circulation in the town. We have listened to many of our residents, including present and past town officials. The overwhelming majority of those appearing before us indicated their strong support for the present Town Council/Town Administrator form of Government. I strongly support this viewpoint for the following reasons:

1. We presently have a Government that is still relatively new and which, after a period of adjustment, is now emerging as an efficient and viable entity.
2. Our government is truly responsive to the needs of the entire community and has demonstrated its ability to work in the best interests of all our residents.
3. Our present form of government affords our citizens daily representation through our Town Administrator as well as continual representation on the legislative level through our Town Councillors. Our citizens need not wait six months or a year for the legislative branch to meet. Our Town Council meets bi-weekly and can quickly resolve problems needing immediate attention.
4. Our present government has met its fiscal responsibilities and, in spite of tight budgets, has this past year, rebuilt 5 major roads, installed sidewalks on Oak Street, stayed within the confines of Proposition 2½ and has maintained a reasonable tax rate.

In view of the above facts, I must oppose the Charter Proposal and ask you to defeat it in April.

Let's retain our form of government that is right for this period in the history of our town, that is guiding us through a period of growth with a reasonable balance between residential and commercial expansion.

Respectfully submitted,

Nicent J. De Baggis

January 12, 1984

MINORITY REPORT

People of Franklin:

The job posed to the Charter Commission was to learn from the people of Franklin what recommendations they had to improve the current form of government, and implement these suggestions for the better of our town.

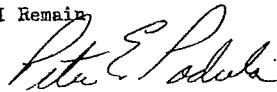
Of the townspeople who addressed our Committee during the past ten months, an overwhelming majority desired to maintain what we have now, with room for improvement. Any Governmental body needs to be updated on a periodic basis, and Franklin is no exception.

Franklin's interest would be best served by retaining our current form of Government and organizing another Charter Commission to review the existing charter to determine what further refinements are needed.

In the best sense of the word we have a progressive form of Government, that is one designed to meet and eliminate problems instead of creating them.

Lets work to keep it.

I Remain



Peter E. Padula
Charter Commission Member

ARTICLE I

INCORPORATION AND POWERS

Section 1.1 Incorporation

The inhabitants of the town of Franklin, within the corporate limits established by law shall continue to be a corporate and politic under the name of "Town of Franklin."

Section 1.2 Short Title

This instrument shall be known and may be cited as the Franklin Home Rule Charter.

Section 1.3 Powers

It is the intent and the purpose of the voters of Franklin through the adoption of this charter, to secure for the town of Franklin all of the powers it is possible to secure under the constitution and statutes of the commonwealth, as fully and as completely as though each such power were specifically and individually enumerated herein.

Section 1.4 Construction

The powers of the town under this charter shall be construed liberally in favor of the town and specific mention of any particular powers in this charter is not intended nor is it to be construed as limiting in any way the general powers of the town as stated in section 1.3.

Section 1.5 Intergovernmental Relations

The town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or civil divisions or agencies thereof, or the United States government or any agency thereof.

ARTICLE II

LEGISLATIVE BRANCH: REPRESENTATIVE TOWN MEETING

Section 2.1 Establishment: Composition

The legislative powers of the town shall be exercised by a representative town meeting to consist of one hundred ninety-eight members, or as nearly that number as may be, who shall be elected to meet, deliberate, act and vote in the exercise of the corporate powers of the town.

Section 2.2 Eligibility: Nomination Procedures

- (a) Eligibility - Any voter shall be eligible for election as a town meeting representative; provided, however, that no person shall simultaneously serve in any elected

- (a) town office, as defined in section 3.1, or as a member of the finance committee, and as a town representative.
- (b) Nomination of candidates for town representatives - Nomination of candidates for the office of town meeting representative shall be made by nomination papers, which shall show clearly whether the candidate is a former town meeting representative, and if an elected incumbent of such office, that he is a candidate for re-election, and shall bear no other political designations. Such papers shall be signed by not less than ten voters of the precinct in which the candidate resides and from which he seeks election, and shall be filed with the town clerk at least twenty-eight days preceding the date of election, provided that any elected town meeting representative may become a candidate for re-election by filing written notice thereof to the town clerk not later than fourteen days prior to the last day and hour for filing nomination papers. The said papers shall first have been submitted to the registrars of voters at least fourteen days prior to the date on which they are to be filed with the town clerk who shall check each name on the nomination paper and shall forthwith certify thereon the number of signatures so checked which are names of voters in the precinct for which the nomination is made.

If a town meeting representative is a candidate for re-election, these words, "candidate for re-election" shall be printed against his name as it appears on the ballot for the election of town officers; provided however, that a town meeting representative elected by the remaining members of a precinct to fill a vacancy shall not for such purpose be considered a candidate for re-election.

No nomination paper shall be valid in respect to any candidate if it fails to have his written acceptance attached to or written thereon.

A town meeting representative who moves from the town shall forthwith cease to be a town meeting representative. A town meeting representative who moves from the precinct from which he was elected to another precinct within the town or who is so removed by a revision of precinct lines may continue to serve as a member of the representative town meeting from the precinct from which he was elected until the next regular town election, at which time the remainder of his term, if any, shall be terminated and a vacancy from that precinct shall exist which shall be filled at that election. Persons so removed from office may be elected as a town meeting representative from the new precinct in which they then reside at the same election.

Section 2.3 Establishment of Precincts

The board of selectmen, after consultation with the board of registrar of voters, shall divide the town into six

convenient voting precincts, so established as to consist of as nearly an equal number of inhabitants as is possible in compact and contiguous territory, bounded insofar as it is possible by the center line of known streets or ways or by other well defined limits. These boundaries shall be reviewed and, if need be, wholly or partly revised by the said selectmen.

(a) at least once in every ten years, (b) whenever it is directed to do so by vote of the representative town meeting, and (c) whenever it is apparent from the street list, census date or other official information that the number of inhabitants in any one precinct varies by five percent or more from the total number of inhabitants of the town divided by six, the number of precincts.

The board of selectmen shall within twenty days following any revision of precinct boundaries, but not later than January twenty of any year, file a report of its doings with the town clerk, the board of registrars of voters and the board of assessors with a map or description of the precincts and the names and addresses of the voters in each such precinct. The board of selectmen shall cause to be posted in at least one public place in each precinct a map or description of that precinct with the names and addresses of the voters therein and copies of all such maps and lists shall be posted on the town bulletin boards. Whenever the precincts are revised the town clerk shall forthwith give written notice to the state secretary, stating the number and designation of such precincts.

Section 2.4 Election and terms

At the first annual town election held following the establishment or revision of precincts all of the town meeting representatives affected by such establishment or revision shall be elected by ballot by the voters of the several precincts.

The first third to the nearest whole number of town meeting representatives elected in the order of votes received shall serve three years; the second third to the nearest whole number shall serve two years; and the remaining third to the nearest whole number shall serve one year from the date of their election. In case of a tie vote affecting the division into thirds, the town meeting representatives elected from the precinct, not affected by such tie vote, shall determine the same by ballot. Thereafter, except as otherwise provided, at each succeeding annual election the voters of each precinct shall elect for three year terms eleven town meeting representatives and shall fill for the unexpired terms any vacancies then existing.

In the event of a tie vote for the office of town meeting representative, the town clerk shall within seven days of the election call all of the candidates for that office who are affected by such tie, together with the elected town meeting representatives from that precinct at a convenient place, and under the supervision of the town clerk any such ties shall then and there be broken by ballots cast by the elected town meeting representatives present.

Section 2.5 Compensation

The town meeting representatives shall serve without salary.

Section 2.6 Time of Meeting

(a) Regular meetings - The representative town meetings shall meet at least twice in each calendar year. The first such meeting shall be held during 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 operation budget for all town agencies. The second such meeting shall be held during the last four calendar months on a date fixed by by-law.

(b) Special meetings - The board of selectmen may, in its discretion, for the purpose of acting on the legislative business of the town in an orderly and expeditious manner and shall whenever petitioned so to do in accordance with a general law, call the representative town meeting into session at other times by the issuance of warrants for that purpose.

Section 2.7 Presiding Officer

A moderator, chosen in accordance with section 3.9, shall preside at all sessions of the representative town meeting, but he shall have no vote unless the members present and voting are equally divided. He shall at the first session if the representative town meeting following each annual town election appoint, subject to the approval of the representative town meeting, from among the elected town meeting representatives a deputy moderator to serve in the event of his absence or disability. In case of the absence or disability of the moderator and the deputy moderator the representative town meeting shall elect from among its own membership a temporary moderator to act during the said absence or disability. The moderator shall perform such other duties as may from time to time be assigned to the office of moderator by by-law, rule or other vote of the representative town meeting.

Section 2.8 General Powers and Duties

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

Section 2.9 Vacancies: Filling of Vacancies

(a) Vacancy - The office of town meeting representative shall become vacant upon death, resignation or removal from office in any manner authorized by law. No office of town meeting representative shall be considered vacant unless (1) a letter of resignation has been filed with the clerk of the meeting by the town meeting representative

or (2) the town clerk has issued a certificate that the incumbent has died or has moved from the town, or (3) the representative town meeting has voted to declare the office vacant.

(b) Filling of Vacancies - A vacancy in the office of town meeting representative shall be filled for the remainder of the unexpired term, if any, at the regular town election if such occurs within one-hundred twenty days following the date of (1) receipt of a letter of resignation, or (2) the issuance of a certificate by the town clerk, or (3) a representative town meeting vote to declare a vacancy. If no such election is to be held within one-hundred twenty days, the remaining members from the precinct shall be called together by the precinct chairman and shall by a majority vote of those present fill the vacancy, to serve until the next regular town election, at which time the remainder of the term, if any, shall be filled by official ballot. Notice of such election by the remaining members of the precinct shall forthwith be filled with the town clerk.

Section 2.10 Clerk of the Meeting

The town clerk, or a designee of the town clerk, shall serve as clerk of the representative town meeting. The clerk of the representative town meeting shall give notice of all meetings to the town representative and to the public keep the journal of the proceedings of the representative town meeting and shall perform by by-law or by other vote of the representative town meeting.

Section 2.11 Procedures

(a) Procedure for Submission of Warrant Articles - The board of selectmen shall at all times receive any petition which is addressed to it and which requests the insertion of subject on a warrant for a town meeting filed by:
(1) any individual elected town officer, including a town meeting representative; (2) any appointed multiple member body, acting by a majority of its members; (3) any ten voters; (4) any other person or agency who may be authorized by by-law. The original copy of each petition filed hereunder shall be retained by the board of selectmen until at least ninety days following the final adjournment of the representative town meeting at which the said petition is acted upon.

(b) Warrants - All matters which are received by the board of selectmen under (a) above shall be placed on warrants issued by the board of selectmen at such convenient times as it may determine and as otherwise provided by the charter or by by-law. The original copy of all warrants for town meetings shall be kept in the office of the clerk of the meeting in a record book maintained for that purpose. A copy of the warrants for each town meeting shall be posted on the town bulletin board within fifteen days following the date on which the warrant is closed and copies shall be mailed forthwith to the place of residence of the moderator, all town meeting representatives and such other persons as may be designated by by-law.

Additional copies of all warrants shall be kept available for distribution by the town clerk.

(c) Committees - The representative town meeting may, by by-law, provide for the establishment of standing committees. Except for a finance committee, on which no town representatives shall serve, other committees may consist of any combination of town meeting representatives and other voters as may be provided by said by-law. Whenever a petition is received by the board of selectmen requesting the inclusion of a subject on a warrant for a town meeting it shall forthwith refer the same to the issuance of a warrant containing the subject matter. All warrants for town meetings shall include a notation of the standing committee to which each article has been assigned by the selectmen. All articles which would require the expenditure of town funds shall, before enactment, be referred to a finance committee for its recommendation. For the purposes of this section the planning board, elected under the provisions of section 3.10, shall be considered a standing committee on planning and zoning, and all articles which relate to planning, zoning, subdivision control and any other matters relating to land use shall, before being acted upon by the representative town meeting be referred to it for a report. All standing committees shall conduct open public hearings on matters assigned to them to provide the public with the opportunity to discuss their views concerning such matters.

(d) Quorum - The first order of business at every session of the representative town meeting shall be a call of the roll for the purpose of ascertaining the number of town representatives present. The results of each such roll call shall be duly recorded by the clerk and a copy of the resulting list shall be posted on the town bulletin boards forthwith, and the same shall be published annually in the annual town report.

Quorum of town meeting representatives of five times the number of precincts shall be required before any business can be conducted.

(e) Rules and Journal - The representative town meeting shall determine its own rules and order of business unless otherwise provided by the charter or by by-law. The journal of the representative town meeting shall be a public record kept available in the town clerk's office and a certified copy available in the public library.

(f) Voting - Voting shall be by voice vote and the moderator shall declare the result of each vote taken. When the result of a voice vote is declared by the moderator, if seven or more town meeting representatives shall doubt the vote as announced by immediately standing, the moderator shall verify the voice vote by taking a standing vote. When the result of a standing vote is declared by the moderator, if fifteen or more town meeting representatives shall doubt the vote as announced by immediately standing, the moderator shall verify the standing vote by taking a roll call vote. The moderator may, in his discretion, direct that any vote be taken by a call of the roll.

(g) Citizen Participation - Any voter or taxpayer of the town shall have a right to speak at representative town meeting sessions subject to such rules as may from time to time be adopted. The representative town meeting shall not for any reason declare itself in executive session or attempt to prohibit the public from attendance at any of its proceedings.

(h) Precinct Organization - The town meeting representatives from each precinct shall, within ten days following each town election, organize by the election from among their own members of a chairman, vice-chairman and a clerk, to serve for a term of one year, and shall file a notice of such organization with the town clerk. If no notice of organization is received by the town clerk for a precinct within ten days following a town election, such clerk shall immediately call a meeting of the town meeting representatives from such precincts as have failed to organize for the purpose of such organization.

Section 2.12 By-laws

(a) Time of Taking Effect - After they are approved by the representative town meeting, proposed by-laws shall be transmitted to the attorney general of the commonwealth for his review as provided by chapter 40, section 32, and will become effective, if not denied by that officer, in accordance with the provisions of that statute.

(b) Codes of Technical Regulations - The representative town meeting may adopt any standard code of technical regulations in whole or in part by reference thereto in an adopting by-law; provided, however, that one or more copies of the proposed code shall be available in the office of the town clerk and published as otherwise provided by law. The adopting by-law shall not be construed as to include changes or revisions made by the drafters of the said code subsequent to the representative town meeting vote to adopt the code.

Section 2.13 Availability of Town Officials at Town Meetings

(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.

Section 2.14 Referendum Procedure

(a) Effective Date of Final Votes - No final vote of the representative town meeting under any warrant article, but not including a vote to adjourn or to dissolve a town meeting, a vote appropriating money for the payment of notes or bonds of the town and interest thereon coming due, a vote authorizing the borrowing of 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 convenience of the town, shall be operative until the expiration of seven days following the dissolution of the meeting. If a petition as hereafter provided in this section is not filed within the said seven days, the votes of the representative town meeting shall then become operative.

(b) Non-Final Votes - Any article disposed of by a vote to lay upon the table, or, to postpone indefinitely, or by other procedural device which avoids a vote upon the merits of the principal question, shall be deemed to have been rejected in the form of an affirmative main motion to accomplish the result envisioned by the framers of the article.

(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.

(d) Form of Question - Questions 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 by the moderator, as appears from the records of such meeting, provided however the question shall always be stated in the affirmative form.

(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 ten percent of the total number of persons registered to vote in the town as of the date of the most recent town election participate at such special election.

ARTICLE III

ELECTED OFFICIALS

Section 3.1 General Provisions

(a) Elective offices - The offices to be filled by the

voters shall be a board of selectmen, a moderator, a school committee, a planning board, a board of assessors, a town clerk, a treasurer-collector, constables, a board of health, a housing authority and such members of regional authorities or districts as may be established by statute, interlocal agreement or otherwise.

(b) Eligibility - Any voter shall be eligible to hold any elective town office, but no elected town official shall simultaneously hold any other town office, elected or appointed except as an ex-officio member of an appointed multiple member body.

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

(d) Compensation - Elected town officials shall receive for their services such compensation as may annually be provided for that purpose by appropriation.

(e) Coordination of Officials - Notwithstanding their election by the voters, the officers named in this article shall be subject to the call of the board of selectmen, or of the town manager for consultation, conference and discussion of any matter relating to their respective offices.

(f) Filling of Vacancies

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

(2) Multiple Member Body - If there is a vacancy in a board consisting of two or more members, other than the board of selectmen, 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.

(3) Board of Selectmen - If there is a failure to elect or if a vacancy occurs in the office of the selectmen, 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.

(g) Recall of Elected Officials

(1) Application - Any person who holds an elected town office, including an elected town representative with more than six months remaining of the term of office by the voters, in the manner provided in this section.

(2) Recall Petitions - Ten or more voters may file with the town clerk an affidavit containing the

the name of the officer whose recall is sought and a statement of the grounds for recall.

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 ten percent of the total number of persons registered to vote in the town as of the date of the most recent town election, in the case of an office filled by a vote of the whole town, or of the precinct from which he was elected in the case of a town representative.

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 certification to 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 the 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 a 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 ten percent of the total number of persons registered to vote in the town 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 sec. (7) below. If the officer is recalled, he shall be deemed removed upon the certification of the election results. The candidate who receives the highest number of votes shall serve for the balance of the unexpired term.

(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 which shall consist of five members. The term of office of each selectman shall be for three years with the terms so arranged that as nearly an equal number of terms 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.

(c) Appointing Powers - The board of selectmen shall appoint all town officers, department heads and employees, and the members of all multiple member bodies for whom no other method of selection is provided by the charter, by by-law or by other vote of the representative town meeting, except persons serving under other elected town officers and officials appointed by state officers.

(d) Investigations - The board of selectmen may make investigations and may authorize the town manager to investigate the affairs of the town and the conduct of any town agency. A report summarizing the results of such investigation shall be printed in the next annual town report.

Section 3.3 School Committee

(a) Composition, Term of Office - There shall be a school committee which shall consist of seven members. The term of office of a school committee member shall be for three years. The terms of office of school committee members shall be arranged that as nearly an equal number of terms 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 schools and all other officers and employees connected with the schools, to fix their compensation and to define their duties, 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 which shall consist of three members. The term of office of an assessor shall be for three years. The terms of office of assessors shall be so arranged that one term shall expire each year.

(b) Powers and Duties - The board of assessors shall annually make a fair cash valuation of all property, both real and personal, within the town, and it shall have all of the powers and duties which are given to boards of assessors under the constitution and laws of the commonwealth, and such additional powers and duties as may be authorized by the charter, by by-law or by other vote of the representative town meeting.

Section 3.5 Town Clerk

(a) Term of Office - There shall be a town clerk. The term of office of the town clerk shall be for three years.

(b) Powers and Duties - The town clerk shall be the keeper of vital statistics of the town and the custodian of the town seal and all public records, shall administer the oaths of office to all town officers who apply to the town clerk, therefore, be the clerk of the representative town meeting and perform such duties with regard to elections and other matters as may be provided by law. The town clerk shall have all of the powers and duties which are given to town clerks under the constitution and laws of the commonwealth and such additional powers and duties as may be authorized by the charter, by by-law or by other vote of the representative town meeting.

Section 3.6 Town Treasurer-Collector

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

(b) Powers and Duties - The treasurer-collector shall receive and take charge of all monies due to the town and shall pay over and account for the same according to the orders of other authorized officers. The treasurer-collector shall have all other powers and duties given to treasurers or to collectors 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 3.7 Board of Health

(a) Composition, Term of Office - There shall be a board of health which shall consist of three members. The term of office of a board of health member shall be for three years. The terms of office of board of health members shall be 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 shall have all of the powers and duties which are given to boards of health under the constitution and laws of the commonwealth, and such additional powers and duties as may be authorized by the charter, by by-law or by other vote of the representative town meeting.

Section 3.8 Constables

(a) Number, Term of Office - There shall be three constables. The term of office of a constable shall be for three years. The terms of office of constables shall be so arranged that the term of one constable shall expire each year.

(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 the observance of the Lord's Day, 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. Constables shall have all of the powers and duties which are given to constables under the constitution and laws of the commonwealth, and such additional powers and duties as may be authorized by the charter, by by-law or by other vote of the representative town meeting.

Section 3.9 Moderator

(a) Term of Office - There shall be a moderator. The term of office of the moderator shall be for three years.

(b) Powers and Duties - The moderator shall preside and regulate the procedure at all sessions of the representative town meeting, and shall have all of the powers and duties which are given to moderators under the constitution and laws of the commonwealth and such additional powers and duties as may be authorized by the charter, by by-law or by other vote of the representative town meeting.

Section 3.10 Planning Board

(a) Composition, Term of Office - There shall be a planning board which shall consist of five members. The term of office of a planning board member shall be for five years. The terms of office of planning board members shall be so arranged that one term shall expire each year.

(b) Powers and Duties - The planning board shall make studies and prepare plans concerning the resources, possibilities and needs of the town. It shall prepare and may from time to time amend and perfect a comprehensive plan which shall set forth graphic and textual form information concerning the present development of the town and parts thereof. Such comprehensive plan shall include recommendations of the planning board concerning the future development (including physical, economic, and environmental aspects) of the entire town and parts thereof.

The planning board shall annually report to the town giving information regarding the condition of the town and any plans or proposals known to it affecting the resources, possibilities and needs of the town, and shall specify amendments that the planning board has made during the past year in the comprehensive plan.

The planning board shall have all of the other powers and duties which are given to planning boards under the constitution and laws of the commonwealth, and shall have such additional powers and duties as may be authorized by the charter, by by-law or by other vote of the representative town meeting.

Section 3.11 Franklin 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).

(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.

ARTICLE IV

TOWN MANAGER

Section 4.1 The board of selectmen shall appoint a town manager. The initial term of office of any town manager appointed by the board of selectmen shall be for three years; at the expiration of an initial three year term, the board of selectmen may thereafter renew the appointment of the town manager for an annual term.

The town manager shall be appointed on the basis of his administrative and executive qualifications. He shall be a person especially fitted by education, training, and experience to perform the duties of the office, and shall hold a degree from an accredited degree granting institution.

Educational Qualifications - Minimum requirement is a baccalaureate degree in government, public or municipal administration or related field. Preference may be given to individuals whose advanced degrees have been earned in the field of government, public or municipal administration.

Administrative Experience - A minimum of three years of full time compensated experience in a professional capacity as a town manager, assistant manager, executive secretary, city administrator or have such training and experience as would demonstrate possession of the required knowledge, skills and abilities of the position.

Eligibility - The position is opened to any qualified candidate, the prime consideration being to obtain the person with the best all-around qualifications for the position.

He need not be a resident of Franklin, or of the commonwealth at the time of his appointment, but he shall establish such residence within twelve months following his appointment, provided, however, the board of selectmen may, by majority vote, extend such time, or waive this requirement.

No person shall be appointed as town manager who has served in any elected office in the town of Franklin in the twelve months immediately preceding the date of the appointment.

The town manager shall devote his full-time to the office and shall not during his term hold any other office, elected or appointed, nor engage in any other business, occupation or profession unless such action is approved, in advance, in writing, by the board of selectmen.

The town may, by by-law, provide such additional qualifications and restrictions on the appointment of a town manager as may seem necessary and desirable.

Section 4.2 Powers and Duties

The town manager shall be the chief administrative officer of the town and be responsible to the board of selectmen for the administration of all town affairs placed in his charge by or under this charter. The town manager shall have the following powers and duties:

(a) He shall supervise and direct the administration of all departments, commission, agencies, and offices, appointed by the board of selectmen.

(b) He shall coordinate programs under the jurisdiction of the board of selectmen with those under the jurisdiction of other town agencies including attendance at meetings of multiple member bodies when his attendance is reasonably requested. He shall represent the board of selectmen during normal business hours with citizens of the town and other persons having business with the town.

(c) He shall attend all regular and special meetings of the board of selectmen, unless excused by the board of selectmen at his own request. He shall have the right to participate in all of its discussions but shall have no vote.

(d) He shall attend all sessions of the representative town meeting.

(e) He shall see that all of the provisions of the general laws, of this charter, town by-laws and other votes of the representative town meeting and of the board of selectmen which require enforcement by him or officers subject to his direction and supervision are faithfully carried out.

(f) He shall, after consultation with the representatives of all town agencies, prepare a proposed annual operating budget for the town. This proposed budget shall first be submitted to the board of selectmen for its review. After review by the board of selectmen, and including any changes as may be requested by the board of selectmen, the proposed budget shall be submitted to the finance committee as provided in article 6. He shall also prepare and submit in a manner provided in article 6, a proposed capital improvements program, annually.

(g) He shall establish and maintain a purchasing policy for the town, and shall insure that the policy is adhered to by all department (excepting those expenditures provided in the school committee budget). The town manager may inspect and examine, or cause to be inspected or examined, the quality, quantity and the condition of materials, supplies

and equipment delivered to or received by any town agency and may review services performed for any town agency except schools.

(h) He shall keep the board of selectmen informed of the practices and trends of other communities and of hearings, laws, and programs of the commonwealth or of the federal government of interest to the town.

(i) He shall be responsible for the keeping of full and complete records of the administrative activities of the town and shall render a full report to the board of selectmen at the end of each fiscal year and otherwise as it may be required.

(j) He shall keep the board of selectmen informed as the financial condition and needs of the town and shall make such recommendations to the board of selectmen as he deems necessary or expedient.

(k) He shall keep a full and complete inventory of all property of the town, both real and personal.

(l) He shall negotiate contracts involving any subject within his jurisdiction. These proposed contracts shall be subject to final approval and execution by the board of selectmen. Copies of all proposed contracts shall be filed with the finance committee before final action is taken by the board of selectmen.

(m) He shall have jurisdiction over the rental and use of all town facilities, except those under the jurisdiction of the school committee, subject to policy guidelines established by the board of selectmen. He shall be responsible for the maintenance and repair of all town facilities including if authorized by town meeting vote, those under the jurisdiction of the school committee.

(n) He shall, at least once in every month, meet with the representatives of all other town agencies, in a joint meeting for the purpose of exchanging views and information to better coordinate the conduct of all town affairs.

(o) He may authorize any subordinate officer or employee to exercise any power or perform any function which is required of him, provided, however, that all acts performed under any such delegation shall be deemed to be his acts.

(p) He shall perform such other duties as may be required of him by the charter, by by-law, by other town meeting vote or by vote of the board of selectmen.

Section 4.3 Vacancy

Any vacancy in the office of the town manager shall be filled as soon as reasonably possible by the board of selectmen. Until such regular appointment, the board of selectmen shall appoint a suitable person as temporary town manager to perform the duties of the office. The original term of such temporary appointment may not exceed three months; one extension of such term, not to exceed a second three months, may be voted by the board of selectmen. Compensation for such person shall be set

by the board of selectmen within the amount appropriated by the town for the office of town manager.

Section 4.4 Removal

The board of selectmen may remove the town manager from office after application of the following procedures:

(a) The board of selectmen shall adopt a preliminary resolution of removal by the affirmative vote of at least three members which must state the reasons for removal. This preliminary resolution may suspend the town manager for a period not to exceed forty-five (45) days. A copy of the resolution shall be delivered to the town manager by certified or by registered mail, return receipt requested.

(b) Within five (5) days after receipt of the preliminary resolution the town manager may request a public hearing by filing a written request with the board of selectmen. This public hearing shall be held at a meeting of the board of selectmen not later than thirty (30) days after the request is filed nor earlier than twenty (20) day. The town manager may file a written statement with the board of selectmen provided the same is received more than forty-eight (48) hours in advance of the public hearing.

(c) The board of selectmen may adopt a final resolution of removal which may be effective immediately, by affirmative vote of at least three members at any time after ten (10) days from the date of delivery of a copy of the preliminary resolution to the town manager, if he has requested one.

(d) Within ten (10) days following the vote to make its resolution final but in no event later than forty-five (45) days from the date of its adoption of the preliminary resolution of removal the board of selectmen shall by the affirmative vote of at least three of its members either affirm or dismiss the final resolution of removal. Failure to affirm a final resolution of removal shall nullify the vote to dismiss the town manager.

(e) The town manager shall continue to receive his salary until the final action of the board of selectmen. The action of the board of selectmen in suspending or removing the town manager shall be final. It is the intention of this provision to vest all authority and fix all responsibility for suspension or removal solely in the board of selectmen.

ARTICLE V

ADMINISTRATIVE ORGANIZATION

Section 5.1 Creation of Departments, Divisions, Agencies & Offices

The organization of the town into operating agencies may be accomplished through either of the methods provided in this article.

(a) By-laws - Subject only to express prohibitions in the constitution and general laws and provisions of the charter,

the town meeting may, by by-law, reorganize, consolidate or abolish any town agency, in whole or in part; establish such new town agencies as it deems necessary or advisable and may prescribe the functions of any such town agency; provided, however, that no function assigned by the charter to a particular town agency may be discontinued or, unless the charter specifically so provides, assigned to any other.

(b) Administrative Code - The board of selectmen, after consultation with the town manager may from time to time prepare and submit to the town meeting plans of organization, which establish town agencies for the orderly, efficient or convenient conduct of the business of the town.

Whenever the board of selectmen prepares such a plan it shall hold one or more public hearings on the proposal giving notice by publication in a newspaper of general circulation in the town not less than seven days in advance, which notice shall describe the scope of the proposal and the time and place at which the hearing will be held. Following such public hearing, the board of selectmen shall submit to the town meeting by warrant article their proposal which may have been amended subsequent to the public hearing.

An organization or reorganization plan shall become effective at the expiration of ninety days following the date of the town meeting at which the proposal is submitted unless the town meeting shall, by a majority vote within that time, vote to disapprove the plan. The town meeting may vote only to approve or disapprove the plan and may not vote to amend or alter it.

The board of selectmen may through the administrative code, and subject only to express prohibitions in the constitution, general laws and the charter, reorganize, consolidate or abolish all town agencies in whole or in part; establish such new town agencies as they deem necessary; and for such purpose may transfer the duties and powers and so far as is consistent with the use for which the funds were voted by the town, transfer the appropriation of one town agency to another; provided, however, that no function assigned by this charter to a particular town agency may be discontinued, or, unless this charter specifically so provides, assigned to any other.

Section 5.2 Personnel Plan

The town manager shall prepare a plan establishing personnel requirements within the town agencies created by by-law or by administrative code, and it shall become effective unless rejected by the board of selectmen within thirty days following the date of its submission to them.

Section 5.3 Publication of Administrative Code and Personnel Plan

For the convenience of the public, the administrative code and any amendments thereto shall be printed as an appendix to, but not an integral part of the by-laws of the town. The personnel plan as prepared by the town manager shall be published annually in the town report.

Section 5.4 Merit Principal

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

Section 5.5 Public Works Department

(a) Director of Public Works: Appointment; Compensation, Power and Duties - The board of selectmen shall appoint a director of public works, who shall exercise and perform under its supervision and direction such powers, rights and duties as it may from time to time designate. His salary or compensation shall be such as the personnel board may recommend and the representative town meeting may vote from time to time. He shall be responsible for the efficient exercise and performance of such powers, rights and duties, and shall hold office subject to the will of the board of selectmen. He shall be specially fitted by education, training and experience to perform the duties of said office. He need not be a resident of Franklin, or of the commonwealth at the time of his appointment, but he shall establish such residence within twelve months following his appointment, provided, however, the board of selectmen may, by majority vote, extend such time or waive this requirement.

Section 5.6 Town Counsel

The board of selectmen shall appoint a town counsel, who shall be specially fitted by education, training and experience to perform the duties of said office.

Any town agency may request the services of the town counsel. The board of selectmen may approve each request, based on its merits. The town counsel shall provide, to each agency requesting his services, a written opinion on the issue involved.

The town counsel shall be present at all sessions of the representative town meeting to provide assistance and clarification as needed.

ARTICLE VI

FINANCES AND FISCAL PROCEDURE

Section 6.1 Fiscal Year

The fiscal year of the town shall be as required by the general laws.

Section 6.2 Submission of the Budget and Budget Message - At least one hundred twenty days prior to the start of the fiscal year, the town manager shall submit to the board of selectmen and file with the finance committee, a proposed budget for the ensuing fiscal year with an accompanying budget message and supporting documents.

Section 6.3 Budget Message - The message of the town manager shall explain the budget for all town agencies, both in fiscal terms and in terms of work programs. It shall outline proposed financial policies of the town for the ensuing fiscal year, describe important features of the budget, indicate any major variations from the current year in financial policies, expenditures and revenues together with the reasons for such changes, summarize the town's debt position and include other material as the town manager deems desirable, or the board of selectmen may require.

Section 6.4 The budget - The budget shall provide a complete financial plan of all town funds and activities, including the budget adopted by the school committee for the ensuing year. Except for the school budget or as may be required by statute or by the charter, it shall be in the form which the town manager deems desirable or the board of selectmen may require. In his presentation of the budget, the town manager shall utilize modern concepts of fiscal presentation so as to furnish maximum information and the best financial control. The budget shall show in detail all estimated income from the proposed property tax levy and other sources and all proposed expenditures, including debt service for the following year. The budget shall be arranged to show the actual and estimated income and expenditures for the previous, current and ensuing fiscal years and shall indicate in separate sections:

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

Section 6.5 Action on the Budget

(a) The board of selectmen and the finance committee shall jointly hold one or more public hearings on the proposed budget which may have been filed with them by the town manager subsequent to the date on which he filed the proposed budget, not less than fourteen days prior to the town meeting session at which it is to be submitted for adoption.

(b) When the budget proposed by the town manager including the budget adopted by the school committee, insofar as permitted by law, is before the town meeting for action it shall first be subject to amendments, if any, proposed by the finance committee before any other amendments shall be proposed.

Section 6.6 Capital Improvement Program

The town manager shall submit a capital improvement program to the board of selectmen and the finance committee at least one hundred fifty days before the start of each fiscal year. It shall be based on material prepared by the capital planning committee of the town, including (a) a clear concise general summary of its contents; (b) a list of all capital improvements proposed to be undertaken during the next ensuing five years, with supporting information as to the need for each such capital improvement; (c) cost estimates, methods of financing and recommended time schedules for each improvement; and (d) the estimated annual cost of operating and maintaining each facility and piece of major equipment involved. This information is to be annually revised by the capital planning committee with regard to the capital improvements still pending or in the process of being acquired, improved or constructed.

ARTICLE VII

CHARTER 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 conformity therewith.

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 Shall 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 Computation of Time

In computing time under the charter, if seven days or less, "days" shall refer to secular days and shall not include Sundays or legal holidays. If more than seven days, every day shall be counted.

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, and words importing the masculine gender shall include the feminine gender.

Section 7.6 Definitions

Unless another meaning is clearly apparant 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.

(b) Emergency - The word, "emergency" shall mean a sudden, unexpected, unforeseen happening, occurrence or condition which necessitates immediate action.

(c) 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 or municipalities of which Franklin is a member.

(d) 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.

(e) Local Newspaper - The words, "local newspaper" shall mean a newspaper of general circulation in the Town of Franklin.

(f) Library - The word, "library" shall mean the Franklin Public Library and any branch or branches which may be established thereof.

(g) Majority Vote - The words, "majority vote" shall mean a majority of those present and voting; provided that a quorum of the body is present.

(h) Multiple Member Body - The words, "multiple member body" shall mean any board, commission or committee consisting of two or more persons whether elected or appointed.

(i) Town - The word, "town" shall mean the Town of Franklin.

(j) Town Agency - The words, "town agency" shall mean any board, commission, ocmmittee, department or office of the town government.

(k) Town Bulletin Boards - The words, "town bulletin boards" shall mean the bulletin boards on which official town notices are posted, one of which shall be located in the Municipal Building/Town Hall, one of which shall be located in the library and those at such other locations within the town as the board of selectmen may from time to time designate.

(l) Voters - The word, "voters" shall mean registered voters of the town of Franklin.

Section 7.7 Re-Enactment and Publication of By-laws

At intervals of not more than five years, proposed revisions or recodifications of the by-laws of the town shall be presented to the representative town meeting for re-enactment. Such revisions or recodifications shall be prepared by a special by-law review committee appointed

by the board of selectmen for that purpose, which shall conduct its review under the supervision of the town counsel or, if the board of selectmen shall so direct, by special counsel appointed for that purpose. Such committee shall be appointed immediately following the adjournment of the annual town meeting in the year preceding the year in which their report is to be filed.

Within eight months following their appointment, the committee shall cause to be published in a newspaper having general circulation within the town (1) a report summarizing their recommendations and noting the times and places within the town where complete copies of their report are available for inspection by the public and (2) the date, time and place not less than two weeks following such publication when a public hearing will be held by the committee on the preliminary report.

Subsequent to their enactment by the town meeting, copies of all by-laws shall be forwarded to the attorney-general of the commonwealth for his review and approval, and they shall be otherwise published as required by the General Laws. Copies of the revised by-laws shall be made available for public distribution.

In each year between such re-enactments and publications there shall be published an annual supplement which contains all by-laws and amendments to by-laws which have been adopted in the previous year.

Section 7.8 Procedures

(a) Meetings - All multiple member bodies of the town, whether elected or appointed or otherwise constituted, shall meet regularly at such times and places within the town as they may prescribe. Special meetings of any multiple body shall be held on the call of its chairman, or by one-third of the members thereof by suitably written notice delivered to the residence or place of business of each member at least forty-eight hours in advance of the time set. A copy of the said notice shall also be posted on the town bulletin boards. Special meetings of any multiple member body shall also be called within one week following the date of the filing with the town clerk of a petition signed by at least fifty voters and which states the purpose or purposes for which the meeting is to be called. Except as otherwise authorized by law, all meetings of all multiple member bodies shall be open and public.

(b) Agendas - At least forty-eight hours before any meeting of a multiple member body is to be held, an agenda containing all items which are scheduled to come before it at the meeting shall be posted on the town bulletin boards. No action taken on a matter not included in the posted agenda shall be effective unless the multiple member body first adopts by separate vote, a resolution declaring that an emergency exists, and that the particular matter must be acted upon at that meeting for the immediate preservation of the peace, health, safety or convenience of the town.

(c) Rules and Journal - Each multiple member body shall determine its own rules and order of business unless otherwise provided by the charter or by by-law, and shall provide for keeping a journal of its proceedings. These rules and journals shall be a public record kept available in a place convenient to the public at all reasonable times, and certified copies shall be kept available in the town library and the town clerk's office.

(d) Voting - Except on procedural matters, all votes of all multiple member bodies shall be taken by voice or roll call vote the result of which shall be recorded in the journal; provided, however, that if the vote is unanimous only that fact need be recorded.

(e) Quorum - A majority of the members of the multiple member body shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the multiple member body. No other action of the multiple member body shall be valid or binding unless ratified by the affirmative vote of the majority of the full multiple member body.

Section 7.9 Rules and Regulations

A copy of all rules and regulations adopted by any town agency shall be filed in the office of the town clerk, and made available for review by any person who requests such information. Such rules and regulations shall not become effective until ten days following the date they are so filed.

Section 7.10 Elections

(a) Annual town election - The annual town election for the election of town officers and the determination of all other questions to be acted upon and determined by the voters shall be taken on official ballots without party or other designation on the date fixed in the by-laws of the town.

(b) Nomination of Candidates - The number of signatures of voters required to place the name of a candidate for any office other than that of town meeting representative on the official ballot for use at any town election shall be not less than fifty signatures of voters.

(c) Ballot Position - The order in which names of candidates including the office of town representative, appear on the ballot for each office in any town election shall be, incumbents first alphabetically by surname, then other candidates, alphabetically by surname.

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.

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 therefore 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.

Section 7.12 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.

ARTICLE VIII

TRANSITIONAL PROVISIONS

Section 8.1 Continuation of Existing Laws

All general laws, special laws, town by-laws, votes, rules and regulations of or pertaining to the town which are in force when this charter takes effect and which are not

specifically or by clear implication repealed hereby, shall continue in full force and effect until amended or rescinded by due course of law or expire by their own limitation.

Section 8.2 Continuation of Government

All town agencies shall continue to perform their duties until re-appointed or re-elected, or until successors to their respective positions are duly appointed or elected or their duties have been transferred.

Section 8.3 Transfer of Records and Property

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

Section 8.4 Continuation of Personnel

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

Section 8.5 Time of Taking Effect

The charter shall become effective upon its approval by the voters and as provided in this section:

(a) A special election to re-establish the board of selectmen shall be held on the third Tuesday in June following the election at which this charter is adopted. Two of these selectmen shall be elected for terms expiring at the third annual town election following their election, two of these selectmen shall be elected for terms expiring at the second annual town election following their election and one selectmen shall be elected for a term expiring at the first annual town election following his election.

(b) The board of selectmen elected at the special election provided for in (a) above, shall assume their office on the first day of July following their election. Upon the assumption of office of the board of selectmen on the first day of July following the election at which this charter is adopted, all of the powers, duties and responsibilities assigned by this charter to the board of selectmen shall become effective.

(c) The incumbent in the office of town administrator at the time the board of selectmen assume their office shall continue in office at the discretion of the board of selectmen. The powers, duties and responsibilities of the incumbent of that office shall become those as defined in this charter for the office of town manager. The board of selectmen may continue the incumbent in office, or they may begin a search for other candidates to fill the office as they deem to be in the best interests of the town. Nothing contained in this charter shall be deemed to grant to the said incumbent town administrator any right or privilege to be continued as town manager, or in any other office or position under the town.

(d) Upon the assumption of office by the board of selectmen, the town council shall be deemed to have the powers of a representative town meeting, as provided in article 2 of this charter, and shall meet only by the issuance of warrants by the board of selectmen containing the subjects for their consideration.

(e) Forthwith following their assumption of office, the board of selectmen shall, in the manner provided in section 2-3, begin to prepare for a re-division of the town into six voting precincts. These precincts shall be used for the purpose of electing town representatives at the annual town election held in the year following the year in which this charter is adopted and may be used for the purpose of other elections as may otherwise be deemed appropriate.

At the annual town election held in the year following the year in which this charter is adopted, one hundred and ninety-eight town representatives shall be elected in accordance with the provisions of section 2-4, thirty-three such representatives to be elected from each of the six precincts.

(f) In the year following the year in which this charter is adopted, the annual town election shall be held on the third Tuesday in March. In addition to the election of town representatives, a candidate shall be elected to the board of selectmen for the term of three years, a candidate shall be elected to the planning board for the term of five years, a candidate shall be elected to the Franklin Housing Authority for a term of five years and the terms of all other officers chosen by election shall be chosen as provided in article 3 of this charter.

(g) Forthwith following their assumption of office, the members of the board of selectmen shall appoint, and shall provide funding for, a special commission on transition. Said special commission shall consist of five members, at least three of whom shall have been members of the charter commission elected at the 1983 annual town election. Forthwith following the adoption of this charter, the incumbent of the office of town administrator shall file with the town council an appropriation order to be adopted as part of the budget for the ensuing fiscal year which shall include funding for said special commission and for such other budgetary amendments as may be necessary as a result of the adoption of this charter, including provision for funding for the office of the board of selectmen. The powers of the special commission on transition shall include, but are not intended to be limited to, a review of all existing town by-laws and ordinances in order to bring them into conformity with the new charter. The town council shall not unreasonably refuse to adopt such measures as are recommended to it by this special commission as being necessary for the purpose of such transition.

[NOTE: The charter commission has prepared drafts of a number of by-laws it deems to be necessary or desirable as part of the new government. These include provision for a permanent building committee, a noise control/pollution committee, a grants committee, a capital planning committee, a personnel board, a by-laws committee and a finance committee. The charter commission would submit these for consideration by the special commission provided for in this sub-paragraph (g).]

(h) Except as provided above, all of the other provisions of this charter shall become fully effective following the annual town election in the year following the year in which this charter is adopted.

FRANKLIN CHARTER COMMISSION



FINAL REPORT

JANUARY 18, 1995

Franklin Charter Commission

Final Report

**Presented to the Town Council
January 18, 1995**

Introduction

The Franklin Charter Commission was elected at the annual town election on April 5, 1994, by an overwhelming 4:1 vote of the people. Specifically, the voters were asked: "Shall a Commission be elected to revise the Charter of the Town of Franklin?" The Commission's purpose has been to review and examine the structure and organization of our town government.

The initiative for a charter review for the most part focused on the perceived need for a more representative, accountable, and well functioning town council. In order to clearly identify the true concerns and issues of the citizenry with respect to the workings of our local government, the Commission sought as much public input as possible in the charter study process. To identify these issues of concern, the Commission conducted a preliminary public hearing on May 16, 1994, invited numerous past and current local officials to present their issues, consistently invited the public to attend meetings and participate in the citizen comment segment of the meetings, the Commission conducted a cable TV telephone call in show for the public, and held a final public hearing on December 6, 1994.

The public participation process of our study identified many issues with respect to our local government. These included the size of the council, the effectiveness of the council in policy making, the term of the council, the perceived need for an elected executive/mayor, conflicts of interest, the need for increased citizen participation in our local government, the need for increased participation on election day, the need for a library board of trustees with greater budget and personnel authority, and the desire to check and balance the power of the administrator.

The Commission then evaluated all of these issues in depth during the late summer and early autumn. During the month of October the Commission sought to achieve a consensus on a new government structure. On several aspects of change the Commission is in agreement; on others the Commission is divided owing to very different philosophies of government and to the basic structural principles of government that should prevail.

The Commission has listened to the concerns, ideas and issues of the citizenry and has conducted its own research of local government structure. Many commissioners have applied sound principles of government -- including accountability, checks and balances, clear division of responsibilities, independence of the legislature, and others to recommend a government structure that meets the demands of as many of the citizens as possible while conforming with principles of good government.

The Commission has completed its work after twenty-five public meetings and will spend the next months presenting its recommendations to the people of Franklin. The following sections of our final report present the recommendations of the majority commissioners and their reasons for these most important and needed changes for an effective government. The final report also includes the report of the minority commissioners and their issues with the recommended changes to the current government.

Franklin Charter Commission

Ballot Question and Summary

BALLOT QUESTION: THE WORDING TO BE USED IS
"SHALL THIS TOWN APPROVE THE CHARTER REVISION
RECOMMENDED BY THE CHARTER COMMISSION,
SUMMARIZED BELOW?

YES	
NO	

BALLOT SUMMARY: The wording to be used is:
"This home rule charter proposes a nine member
town council elected at large for a two year
concurrent term of office. The town election
will be a biennial town election held on the
first Tuesday after the first Monday in
November of the odd numbered year. The school
committee will serve also for a two year
concurrent term. All other town officials
will serve for a four year term; the
administrative boards: planning, assessors
and health will be elected on a staggered
basis."

Majority Report

The work of the Charter Commission has been an important effort for our town and the majority commissioners believe that they have structured a sound, open, and accountable government. No change to Franklin government will be made without the endorsement of the majority of the voters on April 4, 1995. We encourage all residents and registered voters to closely review our recommendations for change.

Recommendations

The People/The Voters

The individual Franklin resident casting a ballot for those who will represent them is the most essential action in the workings of an effective, responsive, and democratic local government. On election day each voter is equal and each has an equal voice in the election process. This important civic privilege serves as the most fundamental means for the citizen to direct and control those who will represent the people.

First and foremost, the majority of the Franklin Charter Commission has sought to enhance the role of the most important player in town government -- the voter. To this end, the Charter Commission has recommended that the town election be held on the first Tuesday after the first Monday in November, in the odd-numbered year. This is known nationally as Election Day, not only for state and federal elections, but also for local elections in the vast majority of states and localities throughout the United States.

Conducting local elections according to the national standard for local elections is intended to welcome as many people as possible, into the local government decision making process. The election will be a biennial election (every two years) with no state or federal candidates/issues on the ballot. The majority believes that it is most important to focus the voter on local candidates and local issues in the odd year and on federal and state candidates and issues in the even-numbered year. The majority commissioners firmly believe that the biennial election will also enhance voter turnout, as residents will only be called upon once every two years (versus every year); and they will have more of an incentive to vote for the representatives/officials who will serve them for the next two years.

The Legislature/The Town Council

The Franklin town council, the local legislature and representatives of the people, is the second most important player in town government after the people. To this end, the Franklin Charter Commission has focused the most significant portion of its research, debate, and deliberations to strengthening the legislative body; while at the same time making it accountable to the people. The Commission has striven to structure an independent, representative, accountable, and functional legislature. Accordingly, this charter recommends major structural changes to the size, basis of representation, and the term of the council.

Council - Size

The size of the town council is clearly a critical factor in its effectiveness in formulating town policies and bylaws. We believe that a council of nine members will allow more individual participation by councilors in debate and also will enhance the importance of membership on the town council. The majority sees a smaller council as crucial, not only to effective policy making, but also to enhanced direction to and control of the appointed executive: the town administrator.

Council - Term

Another crucial structural change is the term of service of the council. Since the beginning of council government in Franklin in 1978, all councilors have been elected for two-year staggered terms; as such the individual councilors serve for two years but the town has a one-year legislature, with only brief time to accomplish policy change as a legislative body. This problem is heightened by the fact that the council is elected at the worst possible time of the year (the spring), which is the waning weeks of the annual budget and public policy cycle. Newly elected councilors are weakened, or ineffective players, in representing their constituents during the budget hearings. Alternatively, long standing councilors who may resign or do not run for election, do so only weeks before they would have been able to vote on important budget and policy decisions that they participated in all year.

In order to improve the important policy making function of the council, the majority has recommended that the council be strengthened by allowing them to serve as a nine-member body for a two-year concurrent term. In this manner, all nine councilors will work together for two years through two complete budget cycles to accomplish the mandate of the people on Election Day.

It is important to point out that continuity in the administration of town affairs will never be at risk as Franklin has a full-time professional administrator, department heads and staff that oversee the day-to-day business affairs of the town much like boards of selectmen do in other towns. As in any town government, the legislature -- the representative town meeting or town council -- are the policy makers and representatives of the people; and they make the policy decisions, while the administrative staff carry out their decisions for the residents. If the voters wish to continue policies favored by certain councilors, then the councilors will continue in office. Continuity of policy should be decided when the people vote for nine town councilors; it should not be automatically built in by staggered terms.

The two-year concurrent town council will be composed of councilors who will continue in office as long as they are responsive to the people. A good legislator will continue in office for several terms, as is the case today. Most importantly, the two-year concurrent council will place greater responsibility with the people of Franklin to continue quality representation; or, when necessary to regenerate the membership of the town council when it needs change.

Council - Basis of Representation

Since 1978, the Franklin town council has had a combination of at-large and precinct councilors to represent the people. The proposed charter recommends at-large representation only. The majority believes that councilors should serve and vote for the interests of the town as a whole. Virtually all councilors who appeared before the Commission firmly stated that they vote for the interests of the town, not the precinct. As importantly, the Commission does not see any distinct or unique interest in any one precinct that is not common to the town as a whole and which, therefore cannot be represented by at-large councilors. If there were unique demographic, social, or cultural interests specific to a precinct, there would be merits to preserving precinct representation. In the absence of this situation, the Commission believes that all legislators should be elected by the town as a whole, and that they should serve the town as a whole.

Council - Prohibitions/Conflicts of Interest

The majority of the Charter Commission believes that our local government should be free from conflicts of interest, or the appearance of conflicts of interest, in decision making for our town. Accordingly, the proposed charter provides that no active town employee may serve on the town council unless they were to take a leave of absence from their position in the administration. The Charter Commission believes that this is the most basic initiative in setting a standard to eliminate real or perceived conflicts of interests by any individual serving on the town council so that their private interests do not conflict with their important public obligation.

School Committee

The second policy making body in town government is the school committee. They have responsibility for all management policy decisions relating to the school system. The majority of the Charter Commission recommends that the school committee continue to have seven members elected at-large but recommends that they serve in the future for a two-year concurrent term. This is consistent with the recommendation for a two-year concurrent term for the town council. The term structure for the school committee is intended to facilitate and strengthen their role as policy makers, to enhance their accountability to the voters, and to promote their direction to the superintendent of schools.

Other Local Officials

The Charter Commission has retained some of the historic aspects of town government in Franklin -- the election of many boards and officials. The Commission recommends the retention of an elected planning board, an elected board of assessors, and an elected board of health. As these are all administrative boards, the Commission has recommended that they serve for a four-year term, with half of their membership elected on a staggered basis every two years.

Two administrative officials who serve at the level of department head will continue to be elected: the treasurer-collector and the clerk. The Commission has recommended four-year terms for these officials as this will increase the continuity of the administrative functions and responsibilities of these offices.

The Commission recommends that the appointed finance committee be appointed on at-large basis, versus the current precinct basis. This change is consistent with the decision to choose our town council on an at-large basis. The opportunity to appoint finance committee members from across the whole town

is intended to facilitate the appointment of the most qualified and interested residents to this important advisory committee.

Recall of Local Officials

The proposed charter retains the same percentage requirements for petition signatures and for recall votes to remove any elected official from office. The significant change that the majority has recommended in the proposed charter is to combine the recall election of the first official with the replacement candidate. The purpose of this change is to prevent vacancies in office and to prevent a second special election.

Transition

If a majority of the voters approve this charter, the town would transfer to the new government on Election Day, November 7, 1995. On that date, the terms of local officials would expire, and the electorate would vote for the new council and other local officials. The majority of the Commission agreed that if it is the will of the voters to adopt the new charter, then the transition should take place in an efficient and orderly manner that would provide the voters and the candidates with a clear understanding of the process.

Summary

In brief, the majority of the Commission has recommended the following changes in comparison to our current government:

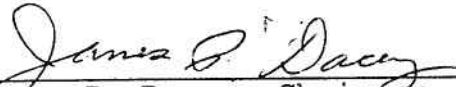
Council Size:	9 members instead of 17
Council Representation:	All at-large instead of 2 from each of 6 precincts and 5 at-large
Council Term:	2 years concurrent instead of 2 years staggered
Council Prohibitions/ Conflict of Interest:	No active town employee may serve on the town council in the future whereas currently they can serve
Date of Election:	Election Day in November of the odd-numbered year instead of the first Tuesday in April of every year
School Committee Terms:	2 years concurrent instead of three years staggered
Terms of Elected Boards:	4 years staggered instead of 3 years staggered
Terms of Elected Officials: (Treasurer-Collector, Clerk and Constables)	4 years instead of 3 years
Representation of Finance Committee:	All at-large instead of by precincts
Recall:	Combined recall of official and the possible election of a replacement into one election instead of two separate elections


Conclusion

The Town of Franklin will face more complex -- and an increasing number of public safety, public works, education, human services, public health, land use control, housing and resource allocation -- issues as the town enters the twenty-first century. The major structural changes to our government as proposed by the Charter Commission are done for the purpose of the creation of an independent council accountable to the voters. This structure is intended to promote the council's ability to legislate for

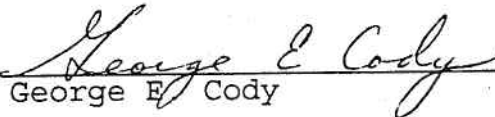
the common good, to allow the people to more easily measure and monitor their legislature, and most importantly, to position the nine legislators to **lead the way** for the town in the years ahead.

The majority of the Charter Commission asks you, the voter, for your serious consideration of these proposed enhancements to our town government and for your vote in favor of the proposed charter on April 4, 1995.


James P. Dacey, Chairman



Kathryn M. Griffin, Vice-Chairman

Deborah L. Pellegrini, Clerk


George E. Cody

Mario J. DeBaggis

Walter G. Jackson


Francis J. Molloy

Neil J. Roche


Michael S. Westerman

MINORITY REPORT

This report is brief (since by law it is limited) and is endorsed by four of nine members of the Commission, because we firmly believe the majority of five does not propose a realistic, practical and workable revision of our present charter.

Events over the past sixteen years clearly indicate that Franklin has a government which, as administered, is far superior to most governments in Massachusetts. It has worked well; it is efficient, despite reports to the contrary; it responds effectively to its citizens; and it needs some improvements. In particular, the membership and make-up of the Town Council must be revised.

In addition, our approach to revising the charter was to completely ignore personalities and not consider specific individuals who presently occupy positions in our local government, thereby keeping the process free of politics.

We sincerely believe the overwhelming mandate of the voters was to propose changes to the membership of the Town Council and no other elected office. While we have considered virtually every aspect of our present charter, our approach was to propose a few changes acceptable to the voters and not to offer radical, wide-sweeping revisions, which can only serve to

create unnecessary turmoil and chaos, adversely affecting the efficiency of our local government.

We support a reduction of the Town Council to a constant and smaller number, perhaps nine or eleven, which may also include precinct councillors. Councillors would be elected on a staggered basis, as present, like all other elected town boards. We do not propose any other material changes, certainly not elections in odd-numbered years, certainly not electing a council and school committee every two years, and certainly not providing for elections for every elected position in November, 1995.

The major criticism of the Council is that it is unwieldy because of its size. Unless changes are made, the Council could increase to twenty-one members by the end of the century. The minority believes that the legislative business of the town could be more effectively conducted by a smaller number, perhaps nine persons, all elected at large. As a matter of compromise, since many persons appearing before the Commission favored retention of precinct representation, we could be persuaded to propose an eleven-member body, with one precinct councillor for each of the six precincts and five at large, with a provision for reducing at-large members as additional precincts are added, thereby retaining an eleven member body.

It is our firm belief that Council positions must be staggered on a two or three-year basis. It serves no useful purpose and it is counter-productive to propose that such an important body be elected every two years. There must be stability and continuity. The experience and understanding of members must pass on to future Councils elected annually. There is no sound reason to elect a seven-member school committee every two years. That body is more than a policy-making one and responsible for nearly sixty percent of the annual budget.

Contrary to the majority's submission, continuity in administration will certainly be at risk. The Council hires and fires the Administrator. The role of the councillor will be unnecessarily politicized. The entire Council, or a substantial majority, could change every two years, not an enviable situation.

While we have no specific proposal for the timing of elections, and for purposes of budget considerations we would certainly consider elections other than in April, it is naive and irresponsible to propose November elections every two years in odd numbered years. There is no evidence that this arrangement would result in an increase in voter participation.

The first Monday in November in odd-numbered years is not known in Massachusetts as "Election Day". Statistics show quite clearly to the contrary. There are forty cities in Massachusetts, all have mayors, and most vote in November in odd-numbered years. However, 304 of 311 towns hold annual elections in the months of February through June. Two towns (Westwood and Wales) hold annual elections in September and November, respectively. Only five towns hold elections in odd-numbered years (Agawam, Barnstable, Methuen, Watertown and Saugus).

We are not concerned with how elections are held outside of the Commonwealth. Spring elections have been traditional throughout the Commonwealth. Voter turnout increases with the importance of the issues before the voters, i.e. school construction, and not necessarily the time of the year. Our experience is that Franklinites want to vote every year.

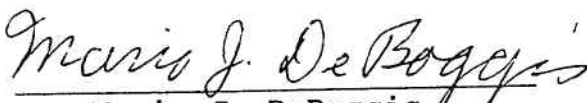
We asked the majority of five to consider giving the voters the choice of voting on alternative Charter revisions. The response was negative and insulting to the voters--stated by the majority to be "the most important player in the town government". The voter either accepts or rejects their proposal. If it is rejected, revisions can only be made by the election of another Charter Commission in 1996 (and placed on the ballot in 1997), an inexcusable delay. If the voters had

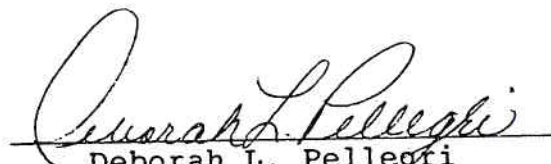
an alternative, which has been the case in several towns, our proposal could very well be accepted and the business of efficient government could be conducted without this delay.

We also vigorously oppose the transition position of the majority. Although barely legal, but completely unwise and unfair, if the proposed Charter revision is accepted, every elected position will be placed on the ballot in November, 1995. All persons elected in 1994 for more than a one-year term and all persons elected in April, 1995 will have their terms abbreviated.

Another item advanced by the majority is an unnecessary conflict of interest provision. General Laws, Chapter 268A has been on the books since 1963 and has been effective. To exclude every town employee from serving on the Council on this basis is not in the true spirit of democracy.

We thank all persons who assisted us in our deliberations. For the foregoing reasons, we earnestly ask the voters to reject the majority proposal.


Mario J. DeBaggis


Deborah L. Pellegri


Walter G. Jackson


Neil J. Roche

TABLE OF CONTENTS

PREAMBLE	1
ARTICLE ONE - POWERS OF THE TOWN	1
Section 1 Incorporation	1
Section 2 Form of government and title	1
Section 3 Scope and interpretation of town powers	1
Section 4 Intergovernmental cooperations	1
ARTICLE TWO - THE TOWN COUNCIL	2
Section 1 Composition and membership	2
Section 2 Eligibility	2
Section 3 Chairman, Vice Chairman and Clerk	2
Section 4 General powers and duties	3
Section 5 Procedures	3
Section 6 Town bylaws	4
Section 7 Action requiring a bylaw	4
Section 8 Vacancy	4
ARTICLE THREE - ELECTED TOWN BOARDS AND OFFICERS	5
Section 1 General provisions	5
Section 2 Special Provisions	5
Section 3 Vacancies	5
ARTICLE FOUR - THE TOWN ADMINISTRATOR	6
Section 1 Appointment and qualifications	6
Section 2 Powers and duties	6
Section 3 Removal of the Town Administrator	7
Section 4 Acting Town Administrator	7
ARTICLE FIVE - TOWN ELECTIONS	8
Section 1 Biennial Town Election	8
Section 2 Initiative	8
Section 3 Referendum	9
Section 4 Recall of elective officers	10
ARTICLE SIX - FINANCIAL PROVISIONS AND PROCEDURES	10
Section 1 Applicability of general law	10
Section 2 Finance Committee	11
Section 3 Submission of budget and budget message	11
Section 4 Budget message	11
Section 5 Budget Proposal	11
Section 6 Action on the proposed budget	12
Section 7 Capital improvements program	12
Section 8 Emergency appropriations	13
ARTICLE SEVEN - GENERAL PROVISIONS	13
Section 1 Charter amendment	13
Section 2 Specific provisions to prevail	13
Section 3 Severability of Charter	13
Section 4 Town boards, commissions and committees	13
Section 5 Counting of days	13
Section 6 Phasing of terms	14
Section 7 Suspensions and removals	14
ARTICLE EIGHT - TRANSITIONAL PROVISIONS	15
Section 1 Effective Date	15
Section 2 Continuation of Existing Laws	16
Section 3 Existing Officials and Employees	16
Section 4 Continuation of Government	16

TOWN OF FRANKLIN, MASSACHUSETTS

HOME RULE CHARTER

PREAMBLE

We, the people of the Town of Franklin, Massachusetts, in order to form a more perfect community, reaffirm the customary and traditional liberties of the people with respect to the conduct of our local government and take fullest advantage of the Home Rule Amendment to the Constitution of the Commonwealth, do ordain and adopt this Home Rule Charter for our Town.

ARTICLE ONE POWERS OF THE TOWN

Section 1 Incorporation

1-1-1 The inhabitants of the Town of Franklin, within the Town's corporate limits as established by law, shall continue to be a body corporate and politic with perpetual succession under the name "Town of Franklin."

Section 2 Form of government and title

1-2-1 This Charter provides for a Town Council - Town Administrator form of town government, and it shall be known by the title "Franklin Home Rule Charter."

Section 3 Scope and interpretation of town powers

1-3-1 The town shall possess, exercise and enjoy all local government powers, rights and privileges under the Constitution and laws of Massachusetts as completely and fully as though they were expressly enumerated herein.

1-3-2 The powers of the Town under this Charter shall be construed liberally in its favor, and no specific Charter grant of particular powers is intended to limit in any measure its general grant of power.

Section 4 Intergovernmental cooperations

1-4-1 In the exercise of its powers and functions, the Town may enter into intergovernmental agreements with other units or agencies of government by any appropriate means.

**ARTICLE TWO
THE TOWN COUNCIL**

Section 1 Composition and membership

2-1-1 The legislative body of the Town shall be a Town Council whose members shall be elected to meet, deliberate, act and vote in exercise of the corporate powers of the Town.

2-1-2 Nine (9) council members shall be nominated and elected from the Town at large, all for two year concurrent terms of office.

2-1-3 Town Council members shall receive no compensation for service but may be allowed expenses incurred in the performance of their official duties.

2-1-4 The term of office of the Town Council shall begin on the first Wednesday following the election and continuing until their successors are qualified.

Section 2 Eligibility

2-2-1 Any registered voter of the Town shall be eligible for election to Town Council membership. However, no person holding an elective office of the Town as established in general law, Article Three of this charter, or bylaw, shall take the oath or affirmation of office as a Town Councillor.

2-2-2 No town councillor shall, while a member of the town council, hold any other compensated town office or position. No former councillor shall hold any compensated appointive office or employment until one year after the expiration of service on the town council. This provision shall not prevent a town officer or employee who has taken a leave of absence from such duties in order to serve as a member of the town council from returning to such office or employment following service as a member of the town council.

Section 3 Chairman, Vice Chairman and Clerk

2-3-1 At the first Council meeting following each regular town election, the Council shall choose from its membership a Chairman and Vice-Chairman each to serve for a one-year term of office. The Chairman shall preside at meetings of the Council and perform such other duties as provided by this Charter, by-law, or Council vote. The Vice-Chairman shall act as Chairman during the absence or disability of the Chairman.

2-3-2 The Council shall also appoint a Clerk of the Council, who shall give notice of all Council meetings to its members and to the public, maintain a journal of all Council proceedings and perform such other duties as may be assigned by this Charter, bylaw or

other vote of the Council.

2-3-3 Vacancies which occur in the offices of Chairman, Vice Chairman or Clerk shall be filled at the next regular Council meeting following the vacancy. All appointments to fill vacancies in Council offices shall be for the remainder of the original one-year term of office.

Section 4 General powers and duties

2-4-1 Except as otherwise may be provided by this Charter, all general, corporate, legislative and appropriations powers of the Town shall be vested in the Town Council.

2-4-2 The Council may enact bylaws, rules, regulations, and other orders, not inconsistent with this Charter, governing its own proceedings, town functions, and all matters bearing on the exercise of its powers and duties.

2-4-3 The Council shall provide for a journal of its proceedings to be kept and maintained as a public record in the office of the town clerk.

2-4-4 The Council shall have the power to appoint the following: (a) a Town Administrator, as provided in Article Four; (b) a Chairman and Vice Chairman of the Council, as provided in Section 2-3-1; (c) a Clerk of the Council, as provided in Section 2-3-2; (d) a Finance Committee, as provided in Article Six; and (e) special study committees the composition of which shall be determined by the Council.

Section 5 Procedures

2-5-1 The Town Council shall meet regularly at least twice in each month. Special meetings may be held at any time if called by the Chairman or by four (4) members of the Council, provided that for any special meeting at least twenty-four (24) hours personal notice shall be given to each Council member. All Council meetings shall be conducted in accordance with the open meeting provisions of general law.

2-5-2 A majority of the full Council membership shall constitute a quorum for the purpose of conducting business.

2-5-3 Except as otherwise may be provided by general law provisions respecting closed sessions, all meetings of the Council shall be open to the public, and residents and employees of the Town shall have a reasonable opportunity to be heard at any such meeting.

Section 6 Town bylaws

2-6-1 Proposed bylaws shall deal with one (1) subject only and shall be introduced in writing and in the form necessary for final adoption.

2-6-2 Any bylaw which amends or repeals a portion of the Town bylaws shall set out in full the portion to be so amended or repealed, by the use of strikeout type, brackets or underscoring.

2-6-3 Prior to final passage, each introduced bylaw shall be read at two (2) separate Council meetings, except in cases of special emergency involving the health or safety of the people or their property. No bylaw shall be declared an emergency unless such an emergency is defined and declared in a preamble thereto, separately voted on and receiving the affirmative vote of at least two-thirds (2/3) of the full Council membership.

2-6-4 The affirmative vote of a majority of the full Council membership, except as otherwise provided by general law or this Charter, shall be necessary for the final passage of any bylaw.

2-6-5 All votes on regular and emergency bylaws shall be taken by roll call and shall be recorded in the journal.

Section 7 Action requiring a bylaw

2-7-1 In addition to other acts required by statute or this Charter to be accomplished through bylaw, those acts of the Town Council shall be through bylaw which: (a) adopt or amend administrative bylaws or establish, alter, or abolish any town department, office or agency; and (b) provide for a fine or other penalty, or establish a rule or regulation for the violation of which a fine or other penalty is imposed; and (c) establish all fees which are not set by general law.

Section 8 Vacancy

2-8-1 Unless recalled in accordance with Article Five, Section 4 of this charter, a vacancy in the office of Councillor at Large shall be declared by the Town Clerk following notification of the death, permanent disability to serve, resignation, and/or failure to maintain a permanent residency within the Town of Franklin.

2-8-2 Vacancies shall be filled by special election to be called within ninety (90) days of said vacancy unless a regular or special town election shall occur within one hundred twenty (120) days.

**ARTICLE THREE
ELECTED TOWN BOARDS AND OFFICERS**

Section 1 General provisions

3-1-1 Members of town boards to be elected by the qualified voters of the Town shall be, in addition to the Town Council: (a) seven members of a School Committee elected for terms of two years, (b) three members of a Board of Assessors, (c) three members of a Board of Health, and (d) five members and one associate of a Planning Board all to be elected from the Town at large for four-year overlapping terms of office so arranged that the terms of as nearly half of the members of such boards and committees shall expire at each biennial town election.

3-1-2 Officers of the Town to be elected at large for four-year terms of office shall be: (a) Town Clerk, (b) a Town Treasurer-Collector, and (c) three Constables.

3-1-3 Officers and members of elective boards established under this Article shall receive such compensation as may be authorized by the Town Council within limits of an appropriation made for that purpose.

3-1-4 Officers and members of boards established under this Article shall exercise such powers and duties as are, and may be, provided by general law, this Charter, bylaw and order of the Town Council.

Section 2 Special Provisions

3-2-1 The School Committee established under this Article shall have general charge of the public schools of the town. The school committee shall have the power to select and to terminate a superintendent of schools, establish educational goals and policies for the schools consistent with the requirements of the laws of the commonwealth and standards established by the commonwealth. The school committee shall have all the powers and duties given to school committees by the laws of the commonwealth.

Section 3 Vacancies

3-3-1 Unless recalled in accordance with Article Five, Section 4 of this charter, vacancies in boards established under this Article shall be filled by the Town Council jointly with the remaining members of the respective board until the next regular Town election.

3-3-2 Unless recalled in accordance with Article Five, Section 4 of this charter, a vacancy in the office of Town Clerk, Town Treasurer-Collector or Constable shall be filled in accordance with the provisions of general law.

**ARTICLE FOUR
THE TOWN ADMINISTRATOR**

Section 1 Appointment and qualifications

4-1-1 The Town Council, by a majority vote of its full membership, shall appoint a Town Administrator who shall administer and implement the directives and policies adopted by the Town Council. The Council shall fix the Administrator's compensation within the limits of an appropriation adopted for that purpose. The salary, benefits, and terms and conditions of employment and the procedures for dismissal shall be negotiated between the Town Council and the Administrator.

4-1-2 In seeking candidates for the Administrator's post, the Town Council shall advertise in appropriate professional journals and other suitable publications as deemed necessary. The Town Administrator need not be a resident of the town at the time of appointment but shall establish residence within the town within one year following appointment, unless the town council shall waive such residency requirement. If a resident of the Town, the successful candidate shall have held no elective town office for a period of one year prior to appointment.

4-1-3 The Administrator shall be appointed on the basis of educational, executive and administrative qualifications and experience, including at least a bachelor's degree in an appropriate field of study from an accredited four-year college or university. Professional experience shall consist of at least three (3) years of full-time, compensated service in town or town administration or related administrative activity.

Section 2 Powers and duties

4-2-1 The Town Administrator shall be the chief administrative officer of the Town and shall be responsible to the Council for the effective administration of all town affairs placed in his charge by or under this Charter.

4-2-2 The Administrator shall hold no elective or other appointive town office, shall devote full-time to the duties of the office and shall engage in no other business or occupation without the advance written authorization of the Council.

4-2-3 The Administrator shall: (a) attend all meetings of the Council except when excused and have the right to speak but not to vote; (b) keep the Council fully informed regarding Town and departmental operations, fiscal affairs, general problems and administrative actions and submit appropriate periodic reports; (c) keep the Council fully informed as to the long-range needs of the Town, the practices and governmental trends of other communities and the laws and regulations of the Commonwealth and make such

recommendations to the Council as deemed necessary and appropriate; (d) prepare, assemble and present to the Council the annual Town operating and capital budgets and cooperate with the Finance Committee in all financial matters; (e) serve as general ombudsman for the Town; (f) maintain an inventory of all town real and personal property; (g) be responsible for the daily administration of the personnel system, including the maintenance of personnel records and enforcement of personnel rules and regulations; (h) serve as central purchasing agent; (i) be responsible for the maintenance of all buildings and property owned or leased by the Town, except that under the jurisdiction of the School Committee; and (j) perform such other duties as may be required by this Charter, bylaw or order of the Council.

4-2-4 The Administrator may, with the approval of the Council, within the departments and agencies under his jurisdiction, establish, reorganize or consolidate any department, board, commission or office.

4-2-5 Subject to ratification by the Town Council, the Administrator shall have the power to appoint; on the basis of merit and fitness alone: (a) a Fire Chief, a Police Chief, a Director of Public Works, a Town Accountant, a Town Counsel, a Director of Civil Defense, a Library Director, all inspectors except as otherwise provided by general law and three (3) registrars of voters; (b) nine (9) members of a Council on Aging, seven (7) members of a Conservation Commission, seven (7) members of an Historic Commission and three (3) members of a Zoning Board of Appeals, all for three-year overlapping terms of office; (c) fifteen (15) members of an Industrial and Development Commission and five (5) members of an Industrial Development Financing Authority, all for five-year overlapping terms of office; (d) five (5) members of a Personnel Board for terms as fixed through bylaw; (e) four (4) members of a Housing Authority and four (4) members of a Redevelopment Authority, all for five-year overlapping terms of office with the fifth member of each board to be appointed under the authority of the Commonwealth; and (f) members of such other boards, commissions and committees and individual town officers and employees as are authorized by general law, this Charter or bylaw and for whom appointment is not otherwise provided.

Section 3 Removal of the Town Administrator

4-3-1 Final removal of any town administrator shall be effected by a majority vote of the full town council at an open council meeting.

Section 4 Acting Town Administrator

4-4-1 The Town Council may designate a qualified person to serve as Acting Town Administrator and to perform the duties of the office during the period of any vacancy caused by the Administrator's

absence, illness, suspension, removal or resignation. The appointment shall be for a period not to exceed one hundred twenty (120) days, but such appointment may be extended an additional sixty (60) days by vote of the Council.

ARTICLE FIVE TOWN ELECTIONS

Section 1 Biennial Town Election

5-1-1 The regular biennial election for all town offices and Town Council members shall be by official ballot held on the first Tuesday following the first Monday in November of each odd numbered year. All elections of town officers and Town Council members shall be nonpartisan, and all election ballots shall be printed without any party mark or other political emblem.

5-1-2 The order of candidate names on the official ballot shall be such that incumbents are listed first, followed by other candidates in alphabetical order.

5-1-3 Any person elected to any office, board or the Council shall take up the duties thereof immediately upon taking the oath or affirmation of office.

5-1-4 Except as otherwise provided by this Charter, the provisions of general law with respect to nominations and elections to town offices shall apply.

5-1-5 The nomination of candidates for election and reelection as Town Council members shall be made by nomination papers filed with the Town Clerk not later than the last day on which nomination papers of candidates for other town offices must be filed. For the office of Town Councillor, such papers shall be signed by at least one hundred (100) qualified voters of the Town. Nomination papers shall not be valid for any candidate whose written acceptance is not attached thereto when filed.

Section 2 Initiative

5-2-1 The voters of the Town shall have the power to propose and act upon any legislative matter falling within the authority of the Town Council so to act, except emergency measures as provided in Sections 2-6-3 and 6-8-1 of this Charter.

5-2-2 Initiative legislation may be proposed by submission to the Town Clerk of a petition signed by the qualified voters of the Town equal in number to not fewer than five percent (5%) of those registered at the last regular town election. Each copy of the petition shall clearly state the question or questions to be voted on.

5-2-3 If, within seven days following receipt of the petition the Town Clerk shall determine it to contain a sufficient number of valid signatures, provision shall be made for a special initiative election to be conducted within thirty-five (35) days thereafter for the sole purpose of voting on the petitioned question or questions.

5-2-4 Each question to be voted on the special initiative election shall be in the same form and language as stated on the initiative petition.

5-2-5 No special initiative election shall be valid unless at least twenty-five percent (25%) of the qualified voters of the Town shall cast a ballot on each question submitted.

Section 3 Referendum

5-3-1 No bylaw, order or other measure adopted by the Town Council, except a vote: (a) to appropriate a sum of money less than fifty thousand dollars (\$50,000.) or (b) to enact an emergency measure as detailed in Sections 2-6-3 and 6-8-1 of this Charter, shall become operative until the expiration of fourteen (14) days following the Council's final vote thereon.

5-3-2 If within such fourteen-day period a petition signed by the qualified voters of the Town equal in number to not fewer than five percent (5%) of those registered at the last regular town election is filed with the Town Clerk, asking that any question involved in such a vote be submitted to the voters, then a referendum shall be held for the sole purpose of presenting the question or questions to the voters of the Town.

5-3-3 If, within seven days following receipt of the petition the Town Clerk shall determine it to contain a sufficient number of valid signatures, provision shall be made for a referendum to be held within thirty-five (35) days thereafter.

5-3-4 Each question to be voted on in the referendum shall be submitted to the voters in the same form and language as when finally voted on by the Town Council.

5-3-5 All procedures for voting upon referendum questions shall be in the same manner as provided by general law for the conduct of town elections.

5-3-6 No referendum against any action of the Town Council shall be valid unless at least twenty-five percent (25%) of the qualified voters of the Town shall cast a ballot on each question submitted.

Section 4 Recall of elective officers

5-4-1 Any elective officer of the Town may be recalled and removed from office by the voters as herein provided. Any voter may file with the Town Clerk a petition containing the name and title of the elective officer whose removal is sought. For all elective officers such petition shall be signed by the qualified voters of the Town equal in number to at least five percent (5%) of those registered at the last regular Town election. Such recall petition must be filed within fourteen (14) days following its initial date of issuance.

5-4-2 If within seven (7) days following receipt of the petition the Town Clerk shall determine it to contain a sufficient number of valid signatures, provisions shall be made for a recall election to be held within sixty (60) days but not sooner than forty-five (45) days thereafter, provided that no such election shall take place if the regular Town election or another special election shall be held within ninety (90) days. All procedures for voting upon the recall question and filling any vacancy caused by the recall of an officer shall be in the same manner as provided by general law for the conduct of Town elections.

5-4-3 Any officer sought to be removed may be a candidate to succeed to the same office, and unless the officer requests otherwise in writing, the town clerk shall place the name of the officer on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the removal election, and the conduct of the same, shall all be in accordance with the provisions of law relating to elections. Ballots used in a recall election shall ask if the officer sought to be recalled shall be recalled; and shall provide for the names of candidates seeking the office of the officer recalled.

5-4-4 If the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected provided that at least twenty-five percent (25%) of all those qualified to vote shall have voted.

ARTICLE SIX FINANCIAL PROVISIONS AND PROCEDURES

Section 1 Applicability of general law

6-1-1 In all matters concerning finances and financial procedures of the Town, the provisions of general law shall apply, together with such other requirements as are provided by this Charter and bylaw.

Section 2 Finance Committee

6-2-1 A Finance Committee of eleven members shall be appointed by the Town Council for one-year terms of office. The Finance Committee shall elect from its membership for one-year terms of office, a Chairman, a Vice-Chairman, and a Clerk. The Town Accountant and the Town Treasurer-Collector shall have ex-officio membership, without voting rights, on the Committee. No elected or appointed Town officer, or compensated Town employee who serves in more than part time employments, shall serve on the Committee. Committee members shall serve without compensation.

6-2-2 Vacancies on the Finance Committee shall be filled promptly by the Council for the unexpired term.

6-2-3 The Finance Committee shall carry out its duties in accordance with the provisions of general law, this Charter and bylaw, and it shall have regular and free access and inspection rights to all books and accounts of any Town department or office. The Committee shall carefully examine all budget and appropriations proposals and shall issue its recommendations thereon prior to consideration, debate and vote by the Town Council.

Section 3 Submission of budget and budget message

6-3-1 Within the period provided by general law, the Town Administrator shall submit to the Town Council and file copies with the Finance Committee a proposed budget for the ensuing fiscal year with an accompanying budget message and support documents.

Section 4 Budget message

6-4-1 The budget message shall explain the budget for all Town agencies in both fiscal and programmatic terms. It shall: (a) outline proposed financial policies of the Town for the ensuing fiscal year; (b) describe important features of the budget; (c) indicate any major variations from the current year in financial policies, expenditures and revenues, together with the reasons of such variations; (d) summarize the Town's debt position; and (e) include such other materials as the Town Administrator may deem desirable or the Finance Committee may require.

Section 5 Budget Proposal

6-5-1 The proposed budget shall provide a complete financial plan for all Town funds and activities, including the proposed School Committee budget of the ensuing year. Except for the school budget or may be required by general law, it shall be in such form as the Town Administrator deems desirable or the Finance Committee may require.

6-5-2 In submitting the proposed budget, the Town Administrator shall utilize modern fiscal principals so as to afford maximum information and financial control. The budget shall detail all estimated revenue from the property tax levy and other sources and all proposed expenditures, including debt service for the previous, current and ensuing years, and shall indicate separately: (a) proposed expenditures for both current operations and capital projects during the ensuing year, detailed by agency, purpose and position, together with proposed financing methods; and (b) estimated surplus revenue and free cash available at the close of the fiscal year, including estimated balances in special accounts.

Section 6 Action on the proposed budget

6-6-1 The Town Council shall conduct at least two (2) public hearings on the proposed budget, and it shall publish, in one (1) or more newspapers of general circulation in the Town, a general summary of the budget and a notice stating: (a) the times and places where copies of the budget shall be available for inspection, and (b) the dates, times and places, not less than fourteen (14) days after such publication, when the public hearings on the budget proposal shall be conducted. The Finance Committee shall issue printed recommendations and make copies available at the time of the public hearings.

6-6-2 The Town Council shall adopt the budget, with or without amendments, prior to the close of the current fiscal year. Adoption of the budget shall constitute appropriation of the amounts specified therein.

Section 7 Capital improvements program

6-7-1 Within the period provided by general law, the Town Administrator shall submit to the Town Council and file copies with the Finance Committee a six-year capital improvements program, which shall include: (a) a clear summary of its contents; (b) a list of all capital improvements proposed to be undertaken during the next six (6) fiscal years, together with supporting data; (c) cost estimates, methods of financing and recommended time schedules; and (d) the estimated annual cost of operating and maintaining any facility to be constructed or acquired.

6-7-2 Information requirements described above may be revised and extended annually with respect to capital improvements in the process of construction or acquisition. A capital improvement shall be defined by the Finance Committee, in consultation with the Town Administrator and other town officials, such definition to be changed from time to time as necessary to reflect current economic conditions.

Section 8 Emergency appropriations

6-8-1 The Town Council shall have the power to enact emergency appropriations orders to meet a public emergency affecting life, health, property or the public peace. Any such emergency order shall be so declared in an emergency preamble thereto, separately voted on and receiving the affirmative vote of at least two-thirds (2/3) of the full Council membership.

ARTICLE SEVEN GENERAL PROVISIONS

Section 1 Charter amendment

7-1-1 This Charter may be replaced, revised or amended in accordance with the provisions of the Constitution of the Commonwealth and general law.

Section 2 Specific provisions to prevail

7-2-1 To the extent that any specific provision of this Charter shall conflict with any general provision thereof, the specific provision shall prevail.

Section 3 Severability of Charter

7-3-1 The provisions of this Charter are severable. If any provision of this Charter is held invalid, the remaining Charter provisions shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of this Charter and its provisions to other persons and circumstances shall not be affected thereby.

Section 4 Town boards, commissions and committees

7-4-1 All boards, commissions and committees of the Town shall organize annually and elect a Chairman and other necessary officers, establish a majority quorum requirement for meetings, adopt rules of procedure and voting and maintain a journal of proceedings, copies of which shall be a public record signed by the Clerk of each board and filed regularly with the Town Clerk. All such boards shall conduct their meetings in accordance with the open meeting provisions of general law.

Section 5 Counting of days

7-5-1 In counting days under this Charter, every calendar day shall be counted, including Sundays and all holidays.

Section 6 Phasing of terms

7-6-1 Elections and appointments to boards, commissions and committees consisting of more than one (1) member and terms of office greater than one (1) year shall be made so that terms overlap. Terms of an equal, or as nearly equal as may be, number of board, commission or committee members shall expire each year.

Section 7 Suspensions and removals

7-7-1 Except as otherwise may be provided by this Charter, collective-bargaining agreements or applicable civil service and tenure provisions, appointing authorities under this Charter shall have the power to suspend or remove from office, for good cause, salaried officials and employees under their jurisdiction.

7-7-2 Good cause shall include, but shall not be limited to, incapacity other than temporary illness, inefficiency, insubordination or conduct unbecoming the officer.

7-7-3 Suspension shall be ordered by the appointing authority only if deemed necessary to protect the best interests of the Town and for no longer than fifteen (15) days.

7-7-4 Removal proceedings shall be as follows: (a) a written notice of intent to remove, together with a statement of the cause or causes therefor, shall be delivered by registered mail to the last known address of the person sought to be removed; (b) within seven (7) days following receipt of said written notice, the officer or employee shall have the right to request a public hearing before the appointing authority which shall be held within fourteen (14) days after such request is made; (c) at any such hearing, the officer or employee shall have the right to be represented by counsel, present evidence, call witnesses and question any witness; and (d) final action shall be taken by the appointing authority within five (5) days following the date of such public hearing or, if no hearing is requested, within five (5) days after delivery of the notice of intent to remove.

7-7-5 Nothing in this section shall be construed as granting hearing rights to any person holding a fixed-term appointment whose term has expired without reappointment.

**ARTICLE EIGHT
TRANSITIONAL PROVISIONS**

Section 1 Effective Date

8-1-1 This charter shall become fully effective upon ratification by the voters, except as provided in this Article:

The election to elect the first town officers under this charter shall be held on first Tuesday following the first Monday in November 1995.

At such election the terms of office of all members of the Town Council then serving shall expire notwithstanding the term for which they were elected. At such election a new nine member Town Council shall, as provided in this charter shall be elected. Forthwith following the election the town clerk shall call together persons elected to the Town Council for the purpose of taking their oaths of office and organizing in accordance with this charter.

At such election the terms of office of all members of the school committee shall expire notwithstanding the terms for which they were elected. At such election a new school committee, as provided in this charter shall be elected

At such election the terms of office of all members of the board of assessors shall expire notwithstanding the terms for which they were elected. At such election a new board of assessors shall be elected as follows: two candidates who received the highest number of votes shall be declared elected for a term of four years, and the candidate who received the next highest number of votes shall be declared elected for a term of two years. As terms of office of members so elected expire, successors shall be chosen as provided in Article 3 of this charter.

At such election the terms of office of all members of the board of health shall expire notwithstanding the terms for which they were elected. At such election a new board of health shall be elected as follows: two candidates who received the highest number of votes shall be declared elected for a term of four years, and the candidate who received the next highest number of votes shall be declared elected for a term of two years. As terms of office of members so elected expire, successors shall be chosen as provided in Article 3 of this charter.

At such election the terms of office of all members of the planning board shall expire notwithstanding the terms for which they were elected. At such election a new planning board shall be elected as follows: three candidates who received the highest number of votes shall be declared elected for a term of four years, and the two candidates who received the next highest number of votes shall be declared elected for a term of two years. The associate member

shall be elected for a term of two years. As terms of office of members so elected expire, successors shall be chosen as provided in Article 3 of this charter.

At such election the terms of office of Town Clerk, Town Treasurer-Collector, and the three Constables shall expire notwithstanding the terms for which they were elected. At such election the Town Clerk, and Town Treasurer-Collector, and the three Constables shall be elected for a term of four years in accordance with provisions of this charter.

Section 2 Continuation of Existing Laws

8-2-1 All bylaws, resolutions, rules, regulations, and votes of the Town Council which are in force at the time this charter is adopted, not inconsistent with the provisions of this charter, shall continue in full force until amended or repealed.

Where provisions of this charter conflict with provisions of town bylaws, rules, regulations, orders, and special acts and acceptances of general law, the charter provisions shall govern. All provisions of town bylaws, rules, regulations, orders and special acts not superseded by this charter shall remain in force.

Section 3 Existing Officials and Employees

8-3-1 Any person holding a town office or employment under the town shall retain such office or employment and shall continue to perform the duties of the office until provisions shall have been made in accordance with this charter for the performance of the said duties by another person or agency. No person in the permanent full-time service or employment of the town shall forfeit pay grade or time in service.

Section 4 Continuation of Government

8-4-1 All town officers, boards, commissions or agencies shall continue to perform their duties until re-appointed, or re-elected, or until successors to their respective positions are fully appointed or elected or until their duties have been transferred and assumed by another town office, board, commission or agency.