



Memorandum – 6

TO: Plymouth Charter Commission
FROM: Collins Center Charter Project Team
DATE: June 9, 2022
RE: Memorandum 6 – Article 2 Wrap Up and Article 3 Continuation

Overview

This memo (Memorandum-6) addresses topics discussed at the Commission’s meetings to date, as well as items to be discussed at its 6/9 meeting. Included in the memo are:

- Language clarifying the appointment process for the Reapportioning Committee
- Language providing additional options regarding the Reapportioning Committee review process
- Language regarding recording of Town Meeting and keeping of Town Meeting minutes
- Language for changing the election process for the Town Moderator
- Language requiring budget-focused joint meeting of town-wide Boards and Committees for budget planning purposes
- Language added regarding a temporary Town Manager
- Language clarifying the relationship between the Select Board and Employees
- Language emphasizing the role and responsibility of the Planning Board and the importance of planning

REAPPORTIONING PROVISIONS

The Commission requested more precise language regarding restrictions on appointing multiple members of the Reapportioning Committee from the same precinct:

- **Old:** Neither the Select Board nor the Committee of Precinct Chairs shall appoint multiple members from the same precinct.
- **New:** *The Select Board shall not appoint multiple members from the same precinct, and the Committee of Precinct Chairs shall not appoint multiple members from the same precinct.*

The Commission requested that further consideration be given to the review timeframes of the Reapportioning Committee. The Team provides two options below based upon the feedback provided from the Commission during the meeting.

- Option 1: Revises interim review language. Same first paragraph, new second paragraph as follows:

Five years after the *completion of the* reprecincting undertaken as described, the Select Board and the Committee of Precinct Chairs shall appoint another Precinct Advisory Board in the same manner as described. The Board shall undertake an interim review of the precincts based upon *population* changes that have occurred since the last *reprecincting decennial federal census* and shall *make recommendations that the Board deems necessary report back* to the Select Board.

- Option 2: Provides an early start to the 10-year review process. This option replaces the full section as follows:

2-1-1 The town shall be divided into voting precincts, as prescribed by state law. In every year ending in a nine (9), there shall be appointed a Precinct Advisory Board of 10 members, 5 of whom shall be appointed by the Select Board and 5 of whom shall be appointed by the Committee of Precinct Chairs described in 2-6-4. The Town Clerk or the Town Clerk's designee shall serve as a nonvoting member ex officio. The Select Board shall not appoint multiple members from the same precinct, and the Committee of Precinct Chairs shall not appoint multiple members from the same precinct. The Precinct Advisory Board shall study the Town's precincts and population prior to the release of the final results of the decennial federal census, shall review the final results of the decennial federal census upon receipt, and shall propose any changes that the Board deems necessary to the Select Board. The Precinct Advisory Board shall hold one or more public hearings to solicit public input.

TOWN MEETING RECORDING AND MINUTES

Based on the Commission's discussion regarding the importance of preserving and documenting the Town Meeting proceedings, the Team provides the following language revisions. The Commission noted that the Clerk need not provide "a summary of the discussion" that could be incomplete or subjective if the actual video was preserved. The new language is in italics.

2-2-4(a): The Select Board shall ensure that a video recording of all Town Meeting sessions is created, preserved, and stored in a location that is accessible for unrestricted public viewing, *along with a text record that includes time stamps at the beginning of each warrant article.*

2-2-4(b): The *Town Clerk* shall ensure that detailed minutes of all Town Meetings shall be created, preserved, and stored in a location that is accessible for unrestricted public access. Such minutes shall contain, at a minimum, the warrant articles, ~~a summary of the discussion,~~ and the action taken on each warrant article.

TOWN MODERATOR

At its last meeting, the Commission voted again to change the town moderator election process from a town-wide election to a vote at town meeting. The following draft language incorporates the Commission's proposal that any registered voter from the town is eligible to run for town moderator. The team has also added language to make clear that the moderator cannot preside over the vote if the moderator is one of the nominated candidates.

Section 8 Moderator

2-8-1 ~~A Moderator shall be elected at the regular town elections for a term of three (3) years.~~ At the beginning of the spring annual town meeting, in the year that the Moderator's term expires, the Moderator shall accept nominations for the position of Moderator. The current Moderator shall preside over the rest of the spring annual town meeting. At the conclusion of town meeting, but before town meeting is adjourned, members shall elect one *registered voter* to serve as Moderator of all town meetings, except as otherwise provided by law, for a term of three years or until a successor is elected and qualified. *Should the current town moderator be nominated for the position, the Town Clerk shall preside over the town moderator voting procedure.* Any vacancy in the office of Moderator may be filled for the balance of the term by such members at a meeting held for that purpose.

2-8-2 The Moderator shall have no vote unless the representative town meeting members present and voting are equally divided.

2-8-3 The Moderator shall preside at all representative town meeting sessions and shall perform such other duties as may from time to time be assigned to the office through by-law or vote of the representative town meeting.

2-8-4 Following the raising of a point of order at any Town Meeting, a motion to appeal the ruling on such point of order shall be allowed by the Moderator and shall be decided by a two-thirds (2/3) vote of the Town Meeting.

2-8-5 Promptly following the ~~annual Town election~~ election of Town Moderator, the ~~Moderator~~ Town Meeting shall elect an Assistant Moderator for a term commencing at the first Town Meeting following such election, or at such time as a vacancy occurs, and ending on the date that the Moderator's term expires. ~~of the annual Town election in the following year. Such appointment shall be subject to the approval of such Town Meeting.~~ The Assistant Moderator shall substitute for the Moderator in the event that the Moderator is absent from a Town Meeting session, *is recused due to a conflict of interest*, or at the discretion and request of the Moderator, and shall carry out the duties of the Moderator excluding any exercise of appointing authority. In the event that the Moderator cannot carry out the duties of his office by reason of death or disability, then the Assistant Moderator shall carry out all of the duties of the office of Moderator. The Assistant Moderator position shall be uncompensated except in the event of the death or disability of the Moderator.

2-8-6 The Town Manager shall provide support personnel to assist the Moderator in carrying out the Moderator's assigned duties.

2-8-7 Residents and taxpayers of the town may speak on any article in a warrant subject to such procedural rules as the Moderator *or Town Meeting* may impose. *Town Meeting may override the Moderator's rulings under this section by following the procedure outlined in 2-8-4.*

JOINT BOARD MEETINGS

The Commission requested language directing a joint meeting of boards and committees for the purpose of budget planning. New language in italics.

- 3-2-8 The Select Board shall meet jointly with the School Committee, Planning Board and all other elected boards of the Town for the purpose of sharing information. The Select Board shall schedule the joint meeting(s), which shall be held no less than twice (2) a year. *At least one of these meetings, which shall also include the Finance Committee, shall be held at the beginning of the annual budget process and shall be for the purpose of reviewing projections and other information relevant to the development of the annual budget.*

TEMPORARY TOWN MANAGER

The Commission requested language adding authority to establish a Temporary Town Manager. No changes to the Acting Town Manager provisions are suggested, but the addition of a new subsection is provided below:

- Current:
3-4-4 The Select Board shall designate a qualified person to serve as Acting Town Manager and to perform the duties of the office during any vacancy of the Town Manager exceeding thirty (30) days caused by the Town Manager's absence, illness, suspension, removal, or resignation. The term of appointment of an Acting Town Manager shall not exceed one hundred eighty (180) days.
- Proposed: new first paragraph; second paragraph is the same
3-4-4(a): The Town Manager shall designate, by letter filed with the Select Board and Town Clerk, a qualified officer of the Town as Temporary Town Manager to perform the duties of the Town Manager during a temporary absence or disability. The Select Board may not revoke such designation until at least 30 days have elapsed, whereupon it may appoint another officer as Temporary Town Manager to perform the duties of the Town Manager. In the event of failure of the Town Manager to make such designation, or if the person so designated is for any reason unable to serve or is deemed not qualified by the Select Board, the Select Board may designate some other qualified officer as Temporary Town Manager to perform the duties of the Town Manager until the Town Manager returns. The powers of a Temporary Town Manager shall be limited to matters not admitting of delay. No Temporary Town Manager shall have authority to make any permanent appointment to, or removal from, any office or position.
3-4-4(b): The Select Board shall designate a qualified person to serve as Acting Town Manager and to perform the duties of the office during any vacancy of the Town Manager exceeding thirty (30) days caused by the Town Manager's absence, illness, suspension, removal, or resignation. The term of appointment of an Acting Town Manager shall not exceed one hundred eighty (180) days.

SELECT BOARD COMMUNICATIONS WITH DEPARTMENTS

The Commission seeks language that reinforces the town manager's authority to direct Town employees by clarifying that the Select Board should direct its communications with Town staff through the town

manager. Many municipalities handle this issue by adopting bylaws, rules, or less formal codes of conduct for Select Board members and Town Managers. (See, e.g., https://www.pembroke-ma.gov/sites/g/files/vyhlf3666/f/uploads/select_board_code_of_conduct.pdf)

However, at least one town, Provincetown, has incorporated language in its charter to address this issue:

Ch.3, Sec. 6 b. The Select Board, and individual members thereof, shall deal with employees who are under the direction and supervision of the Town Manager solely through the Town Manager. Furthermore, neither the Select Board nor its individual members shall give direct orders to any such employee.

The Plymouth Charter Commission could incorporate this language either in Section 3-5-1, which addresses the powers of the Town Manager, or in Section 3-2-6, which indicates the Select Board is responsible for the efficient and orderly operations of the town “through the town manager.”

PLANNING BOARD CHARTER LANGUAGE

The Commission seeks to consider charter changes that amplify the importance of planning, the Planning Board’s role, and the implementation of the Master Plan. After reviewing other charters, it appears that Plymouth already has some of the most robust language establishing the Town’s Planning Board. Most charters include only bare bones language establishing the Planning Board and referring to duties required under Mass General Law. This gives Planning Boards the flexibility to establish their own rules and procedures, but perhaps does not highlight the importance of Planning Boards within the four corners of the Charter.

It seems that the Commission’s greatest area of concern is that the Master Plan created by the Planning Board has not been fully integrated into the actions of other town departments and committees. Other towns have addressed this problem by 1) creating more structure around the process of creating and reviewing a master plan, either by charter, bylaw, policies, or procedures, and/or 2) establishing Master Plan Implementation Committees to review the Master Plan and report on the status of implementation, anticipated next steps, and resources necessary for implementation.

Plymouth has established a Master Plan Task Force. The Center would like to hear further discussion by the Charter Commission about the effectiveness of this task force and whether the Commission is interested in including a Master Plan Implementation Committee in the Charter or creating more structure in the charter surrounding the process of creating and reviewing the Master Plan.