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**Memorandum – 14**

**TO: Plymouth Charter Commission**  
**FROM: Collins Center Charter Project Team**  
**DATE: October 21, 2022**  
**RE: Transition Provisions and Assorted Final Topics**

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**Overview**

The Plymouth Charter Commission has requested that the Collins team provide assistance with Charter transition language and offer any additional suggestions as it finalizes the proposed new Charter.

The transition process between charters requires clear direction and often requires choosing between imperfect options for implementation. The initial suggestions presented below require the Commission to make some difficult choices that will guide the Town through this transition and may require further refinement after the meeting.

For many of these provisions, the Collins Center team has presented two choices, and we are happy to discuss the pros and cons of each. Where the team has some sense of the Commission’s consensus, we will first present the Commission’s leanings and then an alternative process.

Additionally, the Collins team has provided the Commission with a marked-up version of the Preliminary report with some non-substantive changes that may help clarify some language.

We look forward to discussing this memo at the next meeting.

**Transition Provisions**

**Moderator:**

It is our understanding that the Commission would like to implement the new procedure for moderator election during the election immediately following a vote on the Charter. The Charter will be voted in 2023, and the next election cycle begins in 2024. The incumbent moderator was elected in 2022 for a three-year term ending in 2025. While not impermissible, it should be noted that ending an elected term prematurely is generally disfavored because it may be viewed as subverting voter intent. The two alternatives below contemplate a Town Meeting Moderator election in either 2024 or 2025 (upon expiration of the incumbent moderator’s term).

**DRAFT TRANSITION LANGUAGE**

9-9-3 Town Moderator

Option 1: A Moderator, as provided for in this Charter, shall be elected at the first spring Annual Town Meeting following the effective date of this Charter. At such election, the term of office of the incumbent Moderator shall expire, notwithstanding the term for which the incumbent Moderator was elected. The election shall be conducted in accordance with the provisions of Section 2-8-1.

Option 2: The Moderator in office as of the effective date of this Charter shall complete the term to which elected. A Moderator, as provided for in this Charter, shall be elected at the first spring Annual Town Meeting that coincides with the expiration of the incumbent Moderator's term of office. The election shall be conducted in accordance with the provisions of Section 2-8-1.

**Select Board:**

It is our understanding that the Commission would like to implement the new composition of the Select Board during the election immediately following the effective date of the Charter. The Charter will be on the ballot in May 2023, which makes the next election cycle 2024. If the Commission decides to conduct an election for all 7 Select Board seats in 2024, this will prematurely terminate terms of office for some of the incumbent Select Board members. As noted above, while not impermissible, premature termination of an elected term is generally disfavored, because it may be viewed as subverting voter intent. However, there are pros and cons to both methods. We provide both options below.

DRAFT TRANSITION LANGUAGE

9-9-4 Select Board

**Option 1: Current Select Board terms truncated at first election after effective date**

A seven-member Select Board, as provided for in this Charter, shall be elected at the first regular town election following the effective date of this Charter. At such election, the terms of office of all members of the incumbent Board of Selectmen shall expire, notwithstanding the term for which they were elected or appointed. At such election, a new seven-member Select Board, as provided for in this charter, shall be elected as follows:

At-Large:

The two At-Large candidates receiving the first and second greatest number of votes among At-Large Select Board candidates shall each be elected to a three-year term. The At-Large candidate receiving the third greatest number of votes among At-Large Select Board candidates shall be elected to a two-year term. The At-Large candidate receiving the fourth greatest number of votes among At-Large Select Board candidates shall be elected to a one-year term. Ties shall be resolved by a drawing scheduled and conducted by the Town Clerk. Such drawing shall be open to the public. In subsequent elections, At-Large Select Board candidates shall be elected for terms of three years.

District:

The three District Select Board members shall be elected for terms of three years.

OR

District: [alternative text with staggered terms.]

The District Select Board candidate receiving the highest number of votes in each district shall serve as District Select Board members as follows: The highest number of votes received in the district shall serve for 3 years; the second highest number of voters in the district shall serve for 2 years; the third highest number of votes in the district shall serve for one year. Upon completion of the initial term of office, all District Select Board members shall serve three-year terms. Ties shall be resolved by a drawing scheduled and conducted by the Town Clerk. Such drawing shall be open to the public.

**Option 2: Current Select Board members serve out their terms and are replaced in time**

A seven-member Select Board, as provided for in this Charter, shall be implemented following the first regular Town election following the effective date of this Charter.

**At Large:**

The five incumbent At-Large Select Board Members shall serve their remaining terms of office. The Board will transition to four At-Large members upon the expiration of the term of office of the member whose term expires at the first regular Town election following the effective date of this charter. In subsequent elections, all At-Large Select Board Members will be elected for terms of three years.

**District:**

The three District Select Board Members shall be elected at the first regular Town election following the effective date of this Charter, as provided for in this charter. The three District Select Board Members shall be elected for terms of three years.

OR

**District: [Alternative text with staggered terms.]**

The District Select Board candidate receiving the highest number of votes in each district shall serve as District Select Board members as follows: The highest number of votes received in the district shall serve for 3 years; the second highest number of voters in the district shall serve for 2 years; the third highest number of votes in the district shall serve for one year. Upon completion of the initial term of office, all District Select Board members shall serve three-year terms. Ties shall be resolved by a drawing scheduled and conducted by the Town Clerk. Such drawing shall be open to the public.

**Housing Authority:**

Before adding transition language to ensure the Housing Authority composition complies with state law, the Center team recommends the Charter Commission contact the Housing Authority to determine the current practices and procedures regarding electing members. If the Housing Authority has not held an election for a tenant member, the Housing Authority term expiring in 2024 or 2025 should be replaced by the now-required tenant member.

**Finance Committee:**

We propose the following for transition language for the Finance Committee.

#### 9-9-6 Finance Committee

The incumbent members of the Finance Committee on the effective date of this Charter shall continue to serve for the balance of the terms for which they were appointed. Upon the expiration of the term of office, vacancies shall be filled as follows:

Term beginning July 1, 2023: Five members of the Finance Committee shall be appointed by the COPC for three-year terms effective July 1, 2023, through June 30, 2026, and thereafter appointed by the COPC pursuant to Section 2-12-1 of this Charter.

Term beginning July 1, 2024: Five members of the Finance Committee shall be appointed by the COPC for three-year terms effective July 1, 2024, through June 30, 2027, and thereafter appointed by the COPC pursuant to Section 2-12-1 of this Charter.

Term beginning on July 1, 2025: Five members of the Finance Committee shall be appointed by the Moderator for three-year terms effective July 1, 2025, through June 20, 2028, and thereafter appointed by the Moderator pursuant to Section 2-12-1 of this Charter.

#### **District Implementation Committee:**

The Center team has already provided draft transition language for the District Implementation Committee. The Center team wants to emphasize that the Charter Commission must look at the timeline to make sure that districts are chosen at least 60 days before candidates pull papers for elections. This may mean that the Charter Commission must shorten its timelines for creating districts. The team also removed a couple references to “representative” districts in order to avoid confusion should Town Meeting Members be retitled as Representatives.

#### **Legislative Oversight Committee:**

The current draft of the charter contemplates a new Legislative Oversight Committee each year. The Collins Team suggests the Commission discuss whether annual appointments are the best term option and provide sufficient continuity.

In any event, the Collins team proposes the following language for the Legislative Oversight Committee transition:

#### 9-9-7 Legislative Oversight Committee

The Town Manager shall convene the Legislative Oversight Committee within 60 days of the effective date of this Charter, pursuant to the procedure outlined in Section 13, except that the time limits for appointment outlined in Section 2-13-2 will not apply.

### **Assorted Final Topics**

The project team notes that the following topics, discussed below, should be addressed by the Commission prior to the Final Report.

### **Planning Board Associate Member**

It is our understanding that associate members of boards vote only in the case of absence of a member or if a member has a conflict of interest or is otherwise unable to vote on the matter. The text of the charter should be clarified to identify the circumstances when the associate would vote. We recommend the following clarification:

#### DRAFT CLARIFYING LANGUAGE:

3-13-1 The town shall elect a Planning Board of five (5) members for five-year (5) overlapping terms. The Planning Board may appoint one (1) associate member for a three (3) year term, provided that the associate member shall only be permitted to vote on items before the Board when another member of the Planning Board is unable to vote due to absence, conflict of interest, or other unavailability. In such instance, the Chair of the Planning Board shall have the authority to declare unavailability of an elected member and delegate voting authority to the associate member.

### **Title of Individuals Elected to Representative Town Meeting**

It is the project team's understanding that there is interest in referring to those individuals elected to representative town meeting as "Representatives" instead of "Members," in order to highlight the legislative and representative nature of the role. The team does not believe this change would necessarily conflict with state law and is within the purview of the Commission. The Commission should be aware, however, that this change diverges from the long tradition of representative town meeting, dating back to the special act creating the first representative town meeting in Brookline ([Chapter 250 of the Acts of 1915](#)), which refers to "such elected voters to be town meeting members of the town." Furthermore, it could cause confusion to parties outside of Plymouth as to the nature of Plymouth's form of government.

## **Appendix: Proposed Transition Chapter**

### **CHAPTER 9**

#### **TRANSITION PROVISIONS**

##### **Section 1 Effective Date**

9-1-1 This Charter shall become effective on July 1, 2023, except as provided herein.

##### **Section 2 Transfer of Records and Property**

9-2-1 All records, property, and equipment whatsoever of any Town agency, or part thereof, the powers and duties of which are assigned in whole or part to another Town agency, shall be transferred forthwith to such agency.

##### **Section 3 Continuation of Government**

9-3-1 All committees, commissions, boards, departments, officers, and other agencies of the Town shall continue to perform their duties until reappointed, re-elected, or until successors to their respective positions are duly appointed or elected or their duties have been transferred.

##### **Section 4 Continuation of Administrative Personnel**

9-4-1 Any person holding an office or position in the administrative services of the Town, or any person serving in the employment of the Town shall retain such office or position and shall continue to perform his duties until provisions shall have been made in accordance with this charter for the performance of the said duties by another person or agency; provided, however, that no person in the permanent full time service or employment of the Town shall forfeit his pay grade or time in service. All such persons shall be retained in a capacity as similar to their former capacity as it is practical so to do.

##### **Section 5 Effect on Obligations, taxes, etc.**

9-5-1 All official bonds, recognizances, obligations, contracts, and other instruments entered into or executed by, with or on the behalf of the municipality before the adoption of this charter, shall continue to be obligations of the municipality and all taxes, assessments, fines, penalties, forfeitures, incurred or imposed, due or owing to the municipality, shall be enforced and collected; and all writs, prosecutions, actions and causes of action, except as herein otherwise provided, shall continue without abatement and remain unaffected by the charter; and no legal act done by or in favor of the municipality shall be rendered invalid by reason of the adoption of this charter.

##### **Section 6 District Implementation Committee**

9-6-1 Within 90 days of the effective date of this Charter, the Town Manager shall create a District Member Implementation Committee to propose a method of devising district representation for three (3) District Select Board members. The Committee shall be selected as follows:

- COPC (Committee of Precinct Chairs) – 2 voter appointments
- Select Board – 2 voter appointments
- Moderator – 1 voter appointment
- Town Clerk or designee
- Town Manager or designee

9-6-2 The Committee shall review Plymouth's existing voting precincts and create a proposal dividing the existing precincts as equally as possible into three (3) districts for the purpose of electing three (3) District Select Board members. A district is a geographical area comprising approximately one third of the population and one third of the Town's precincts. In formulating its recommendation, the Committee shall follow all guidelines established by M.G.L. Ch. 54, sec. 6 and any other applicable state laws.

9-6-3 Within 90 days after convening, the Committee shall publish its proposal, including a preliminary map, to the Town's website and hold a public meeting to elicit public input and feedback at least 14 but no more than 21 days after the map is posted.

9-6-4 The Committee shall present its proposal for three (3) districts to the Select Board within four (4) months of convening. The Select Board shall act on this recommendation within 30 days of receipt, either approving or rejecting the proposal.

Should the Select Board fail to enact the proposed recommendation of the Committee, the Select Board shall establish the districts within 30 days of the vote to reject. The inaugural election of District Select Board Members shall occur at the next regular Town election.

### **Section 7 Communications and Engagement**

9-7-1 The Town Manager shall be charged with the creation of a transition plan for the implementation of Chapter 7 -- Communications and Public Engagement. The Town Manager shall solicit input into the transition plan from residents, community groups, businesses, elected and appointed Town officials, and Town Department Heads. Within 120 days of the effective date of this Charter, the Town Manager shall provide an update to the Select Board on the transition plan, including the Town Manager's anticipated strategy for fulfilling the requirements of Chapter 7.

### **Section 8 Consolidated Maintenance Study Committee**

9-8-1 Within 90 days of the effective date of this charter, the Town Manager shall create a 5 (five) member Consolidated Facilities Management and Maintenance Study Committee to study possible consolidation of Town and School facilities management and maintenance. The directive of this study committee is to consider a full range of options as practicable, provide analysis of the potential benefits and barriers of each option, and consider which are the best fit for the Town.

9-8-2 The committee shall issue recommendations to the Selectboard within 180 days of creation. The Selectboard shall take action on the recommendations within 90 days of receipt.

### **Section 9 Elected and Appointed Officials**

9-9-1 All those in elected office at the time the charter is adopted shall complete the terms to which elected or appointed before the provisions of the charter relating to election or appointment, and term take effect, except as otherwise provided in the charter.

9-9-2 Vacancies in any such position prior to end of the term following the charter's adoption can be filled under the charter provisions. Appointments to the Finance Committee by the Moderator and the COPC as vacancies occur shall adhere to the intent and requirements of section 2-12-1.

9-9-3 Moderator: [See options above]

9-9-4 Select Board: [See options above]

9-9-5 Housing Authority: [TBD]

9-9-6 Finance Committee

The incumbent members of the Finance Committee on the effective date of this Charter shall continue to serve for the balance of the terms for which they were appointed. Upon the expiration of the term of office, vacancies shall be filled as follows:

Term beginning July 1, 2023: Five members of the Finance Committee shall be appointed by the COPC for three-year terms effective July 1, 2023, through June 30, 2026, and thereafter appointed by the COPC pursuant to Section 12 of this Charter.

Term beginning July 1, 2024: Five members of the Finance Committee shall be appointed by the COPC for three-year terms effective July 1, 2024, through June 30, 2027, and thereafter appointed by the COPC pursuant to Section 12 of this Charter.

Term beginning on July 1, 2025: Five members of the Finance Committee shall be appointed by the Moderator for three-year terms effective July 1, 2025, through June 20, 2028, and thereafter appointed by the Moderator pursuant to Section 12 of this Charter.

9-9-7 Legislative Oversight Committee:

The Town Manager shall convene the Legislative Oversight Committee within 60 days of the effective date of this Charter, pursuant to the procedure outlined in Section 13, except that the time limits for appointment outlined in Section 2-13-2 will not apply.

**Section 10 Adoption of Measures to Assist with Transition**

9-10-1 The Select Board shall have the authority to adopt measures that clarify, confirm, or extend any of the transition provisions in order that the transition may be made in the most expeditious and least contentious manner possible.