



The Town of Barnstable

Comprehensive Financial Advisory Committee (CFAC)

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www.town.barnstable.ma.us

CFAC Committee:

Chairman:

John Curtis, Chair

Members:

Bill Brower
Laura Cronin
Ralph Krau
Tom Michael
Jim Sproul

Staff Liaison:

Mark Milne

Councilor Liaison:

Richard Barry

CFAC MEETING MINUTES

07.21.08

7:00 PM

Selectman's Conference Room

CFAC Members Present: Bill Brower, Laura Cronin, John Curtis, Ralph Krau,

CFAC Members Absent: Tom Michael, Jim Sproul

Councilors Present: None

Staff Present: Mark Milne

1. Upon a quorum duly present, Chairman Curtis called the CFAC meeting to order at 7:05 PM in the Selectman's Conference Room.

2. Approval of Minutes:

A motion was made and seconded to approve the minutes of 06.16.08.
Vote: Unanimous

3. Old Business: Review of the Town Charter Document:

A copy of the document with suggested changes is attached to these minutes.

Laura C. suggested that recommendations for changes to the charter be highlighted in color to better identify them.

Ralph K. commented that the cover letter could indicate where the changes, or recommendations, are included.

Laura C. commented that she would prefer to have the word "recommended" inserted in the comments under sections 7-1 and 7-2. Everyone agreed.

John C. asked if the comments under section 7-4 should be left in. Committee decided to take them out.

Ralph K. brought up the citizen initiative petitions. Should CFAC include something about frivolous petitions? These cost the taxpayers money. Perhaps the petitioners should pay for the cost of the election if they lose to discourage frivolous petitions. Laura C. commented that what one person determines frivolous may not be another person's definition of frivolous.

Who would you collect fees from if they lose? Laura C. thinks this is outside CFAC's purview and CFAC's intent in reviewing the charter. She would need to think about this more and perhaps the committee should do a more thorough review of the charter if this is where the committee wants to go.

John C. suggested that the committee include a recommendation that the charter committee consider the financial impact of citizen initiate measures. Bill B. agrees. John C. thinks Ralph K.'s idea is a good one in that the charter commission could restructure the process to be more cost effective but at the same time thought it is important not to discourage the taxpayer's rights. Laura C. commented that if we address the financial impacts under this section then CFAC should be consistent and address the financial impact under all sections that may have one.

John C. suggested that perhaps this could be covered in the cover letter. Bill B. agree that this was the way to proceed and that the charter commission could evaluate the financial impact of citizens initiatives and elections. John c. asked Laura C. if this would be acceptable to her. She said it would.

Bill B. commented that CFAC should be incorporated into the charter as an advisory committee with more power and not part of the administrative code. Committee members agreed.

Bill B. will make the suggested changes to the document and email to Mark. Mark will provide color copies for John C. to distribute to the Charter Commission. John C. will finalize the draft of the cover letter.

A motion was made and seconded to accept the changes made to the charter document. Vote: Unanimous

4. Discussion:

Ralph K. commented that there is still some misunderstanding in the community about how commercial assessments are performed. Mark m. suggested that the Director of Assessing be invited to the August 18th meeting to review this and any other assessing matters with CFAC. The committee agreed. Mark will send out an invitation to Jeff Rudziak.

5. Adjournment

Upon a motion duly made and seconded, it was voted to adjourn at 8:12 PM
VOTE: Unanimous.

The next meeting for CFAC is scheduled for August 18th, 2008 in the Selectmen's Conference Room at 7:00 PM

**TOWN OF BARNSTABLE
CHARTER MODIFICATIONS**

**SUGGESTED BY THE
COMPREHENSIVE FINANCIAL
ADVISORY COMMITTEE (CFAC)**

22 JULY 2008

SPECIFIC COMMENTS ARE CONTAINED AT THE END OF THE SPECIFIC SECTION CONCERNED.

CFAC has not taken a position on the form of government and has no comments related to that in this document.

PREAMBLE

The people of the Town of Barnstable, desiring to manage their affairs in an honest, forthright, and efficient manner, and wishing to participate most fully in exercising the rights and responsibilities of local government, and praying for the minimum of interference from the yet larger state, do adhere to this charter.

We assert our willingness to assume all responsibility for the conduct of matters pertaining to the town, and do by this document earnestly affirm our right as inhabitants of Barnstable, to live and grow in freedom, dignity, and tranquility.

PART I

Incorporation, Short Title, Powers

Section 1-1 Incorporation Continued

The inhabitants of the Town of Barnstable, Massachusetts, within its territorial limits as now or may hereafter be established by law, shall continue to be a body politic and corporate, known as the "Town of Barnstable."

Section 1-2 Short Title

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

Section 1-3 Division of Powers

All legislative powers of the town shall be exercised by a town council. The administration of all town fiscal, business and municipal affairs shall be vested in the executive branch headed by the town manager.

Section 1-4 Powers of the Town

The intent and purpose of this charter is to secure for the voters of the Town of Barnstable, through the adoption of this charter, all the powers possible to secure for their government under Article LXXXIX of the Amendments to the Constitution of the Commonwealth and laws of the Commonwealth, as fully and as though each such power were specifically and individually enumerated herein. The Town of Barnstable shall constitutionally have a city form of government.

Section 1-5 Interpretation of Powers

The powers of the town under the charter shall be construed and interpreted liberally in favor of the town, and the specific mention of any particular power is not intended to limit in any way the general powers of the town as stated in section 1-4.

Section 1-6 Intergovernmental Relations

The town may enter into agreements with any other unit of government to perform jointly or in cooperation, by contract or otherwise, any of its powers or functions.

Section 1-7 Town Seal

The Town Seal in existence at the time this charter is adopted, unless the town council shall adopt another, shall continue to be the Town Seal and shall be kept in the custody of the town clerk. Papers or documents issued from any office or board of the town may be attested by use of said seal.

PART II**Legislative Branch****Section 2-1 Composition; Eligibility; Election and Term****(a) Composition**

There shall be a town council which shall exercise the legislative powers of the town. One councilor shall be elected from each precinct.

(Amended by Town Council item #93074A on 2/18/93; Confirmed by a majority of voters on 5/18/93; Amendment passed by Act of State Legislature June 1993).

(b) Eligibility

Only voters who at all times during their term of office shall be and remain residents of the town shall be eligible to hold the office of councilor. A member of the town council who shall remove from one precinct to another during the term for which such councilor was elected shall cease to be a member of the town council, provided however, a councilor with six months or less remaining on the term for which such councilor was elected, notwithstanding removal from one precinct to another, shall continue to serve and to perform all official duties during such term of office.

(c) Election and Term The term of office of all members of the Town Council shall be for four years beginning on the second Monday following election and continuing until their successors are qualified. Councilors shall serve four year overlapping terms so arranged that the terms of as nearly half of the councilors as may be shall expire at each biennial town election.

(Amended by Town Council item #93074A on 2/18/93; Confirmed by majority of voters 5/18/93; Amendment passed by Act of State Legislature June 1993). Further amended by Town Council vote in Dec. 1993 and passed by Act of State Legislature, May 31, 1994.

Section 2-2 Council Organization

After the councilors-elect have been sworn, the town council shall be called together by the town clerk for the purpose of conducting an election among council members for the office of town council president and vice-president to serve at the pleasure of the town council. The president shall preside at all meetings of the town council, and perform such other functions as may be assigned by the charter, by ordinance or by vote of the town council. The vice-president shall preside at meetings of the town council during the absence or disability of the president.

Section 2-3 General Powers and Duties

Except as otherwise provided by law or by the charter, all powers of the town shall be vested in the town council which shall provide for their exercise and for the performance of all duties and obligation imposed on the town by law.

Section 2-4 Appointments of Multiple Member Bodies

Unless provide otherwise by this charter or until provided otherwise by provisions of section 5-1 the town council shall appoint all boards, commissions, and committees. The town council shall adopt procedures to allow for orderly appointment of multiple member bodies.

Section 2-5 Filling of Vacancies

If a vacancy occurs in the office of councilor occurs during the first forty-four months of a term, it shall be filled by a precinct election. If a regular town election is scheduled to be held within 120 days, but more than fifty days, after the date vacancy occurs, it shall be filled by a special election within that regular election; otherwise, the council shall schedule a special election to be held as soon as is practical to fill the vacancy for the balance of the unexpired term. The provisions of the charter governing regular elections shall, so far as they are apt, apply to said special election, provided no preliminary election shall be held. (Amended by Town Council item 91-03-02 on 6/20/91; amendment approved by voters 11/5/91).

Section 2-6 Exercise of Powers; Quorum; Rules of Procedure**(a) Exercise of Powers**

Except as otherwise provided by the laws of the Commonwealth or the charter, the legislative powers of the town council may be exercised in a manner determined by it.

(b) Quorum

One-half of the total membership of the town council plus two shall constitute a quorum. The affirmative vote of a majority of the full town council shall be necessary to adopt any appropriation order. Except as otherwise provided by the laws of the Commonwealth or the charter, any other motion or measure may be adopted by a majority vote of those present.

(Amended by Town Council item #93074A; Confirmed by voters 5/18/93; Amendment passed by Act of Legislature June 1993).

(c) Rules of Procedure

The town council shall from time to time establish written rules for its proceedings. Regular meetings of the town council shall be held at a time and place fixed by ordinance but which shall be not less frequent than once monthly. Special meetings may be held on the call of the president of the town council, or on the call of any four or more members, by written notice delivered at least forty-eight hours in advance of the time set. Except as otherwise authorized by the laws of the Commonwealth all sessions of the town council shall be open to the public and press. Every matter coming before the town council for action shall be put to a vote, the result of which shall be duly recorded. All council votes on ordinances, appropriation orders, or loan authorizations shall be taken by roll call vote, and shall be duly recorded by the town clerk. A full, accurate, and up-to-date record of the proceedings of the town council shall be kept and shall be open to inspection by the public. Regular meetings of the town council shall provide for a period of public comment, provided however, the council may regulate such period of public comment as deemed appropriate.

(Changed by legislative action dated August 3, 1995)

Section 2-7 Council Staff

The town council may employ such staff and experts as is necessary to conduct the business of the town council. The town council shall set the salaries of such staff.

Section 2-8 Measures; Emergency Measures; Charter Objection**(a) In General**

No measure shall be passed finally on the date on which it is introduced, except in cases of special emergency involving the health or safety of the people or their property. Except as otherwise provided by the charter, every adopted measure shall become effective at the expiration of thirty days after adoption or at any later date specified therein. Measures not subject to referendum shall become effective upon adoption. No ordinance shall be amended or repealed except by another ordinance adopted in accordance with the charter, or as provided in the initiative and referendum procedures.

(b) Emergency Measures

An emergency measure shall be introduced in the form and manner prescribed for measures generally except that it shall be plainly designated as an emergency measure and shall contain statements after the enacting clause declaring that an emergency exists and describing its scope and nature in clear and specific terms. A preamble which declares and defines the emergency shall be separately voted on and shall require the affirmative vote of two-thirds of the town council. An emergency measure may be passed with or without amendment or rejected at the meeting at which it is introduced. No measure making a grant, renewal or extension, whatever its kind or nature, or a franchise or special privilege shall be passed as an emergency measure, and except as provided by the laws of the Commonwealth, no such grant, renewal or extension shall be made otherwise than by ordinance. After its adoption, an emergency measure shall be published as prescribed for other adopted measures. An emergency measure shall become effective upon adoption or at such later time as it may specify.

(c) Charter Objection

On the first occasion that the question on adoption of a measure is put to the town council, if a single member objects to the taking of the vote, the vote shall be postponed until the next meeting of the town council whether regular or special. If two members shall object, such postponement shall be until the next regular meeting; but for an emergency measure at least four members, in all, must object. This procedure shall not be used more than once for any matter bearing a single docket number notwithstanding any amendment to the original matter. (Changed by legislative action dated August 3, 1995).

(d) Publication of Measures

Notice of every proposed ordinance, appropriation order, or loan authorization, except emergency ordinances provided in section 2-8(b), shall be published once in a local newspaper, and in any additional manner as may be provided by ordinance at least ten days before its final passage. Upon final passage, notice of every ordinance, appropriation order, or loan authorization shall be published in a newspaper of general circulation within the town and posted on the town bulletin board. Any such publication notice required shall state the summary of the proposed or finally enacted ordinance or ordinances and the times and places at which copies of such ordinance or ordinances may be obtained or reviewed by the public.

Section 2-9 Delegation of Powers

The town council may delegate to one or more town agencies, the powers vested in the town council by the laws of the Commonwealth to grant and issue licenses and permits, and may regulate the granting and issuing of licenses and permits by any such town agency, and may in its discretion, rescind any such delegation without prejudice to any prior action which has been taken.

Section 2-10 Inquiries and Investigations

The town council may require any town officer or member of a board or commission to appear before it, and give such information as it may require in relation to an office held by such person, its function, and performance. The town council shall give at least forty-eight hours written notice of the general scope of the inquiry which is to be made to any person it shall require to appear before it under this section.

The town council may make investigation into the affairs of the town and into the conduct of any town agency, and for this purpose may subpoena witnesses, administer oaths and require the production of evidence.

Section 2-11 Prohibitions

No councilor shall, while a member of the town council, hold any other compensated town office or position. No former councilor shall hold any compensated appointive town office or town employment until one year after the expiration of his 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. No person elected to serve as a town councilor may serve more than three consecutive terms of office.

Section 2-12 Compensation; Expenses

The town council shall by ordinance, establish an annual salary and expense allowance for its members.

No ordinance increasing such salary or expense allowance shall be effective, however, unless it shall have been adopted by a two-thirds vote of the full council during the first eighteen months following each regular town election. The new salary and expense schedule shall be effective the first of the year next following the next regular municipal election. (Changed by legislative action dated August 3, 1995.)

PART III

Elected Town Offices

Section 3-1 Elective Offices in General

In addition to the town council, the offices to be filled by the voters shall be a school committee, a town clerk, a town collector and a housing authority and such other regional authorities, districts, or committees as may be established by law or interlocal agreement.

Section 3-2 Eligibility

Any voter shall be eligible to hold any elective town office provided that, no person shall simultaneously hold more than one elective town office.

Section 3-3 School Committee

(a) Composition, Terms of Office

There shall be a school committee composed of five members elected by and from the voters at large.

(b) Term of Office

The terms of school committee members shall be four years beginning on the second Monday following election and continuing until a successor is qualified. Terms of office shall be so arranged that the terms of as nearly an equal number of members as is possible shall expire at each regular election. (Amended by Town Council vote Dec. 1993 Approved by Act of Legislature - May 31, 1994.)

(c) Powers and Duties

The school committee shall have general charge and superintendence of the public schools of the town. The powers of the school committee shall include, but need not be limited to: appoint a superintendent of schools, and all other officers and employees associated with the school, fix their compensation, define their duties and discharge them; make all reasonable rules and regulations, consistent with law, for the administration and management of the public schools of the town. The school committee shall have all the powers and duties given to school committees by the laws of the Commonwealth, the charter, ordinance or other council vote.

Section 3-4 Town Clerk

(a) Election

A town clerk shall be elected by and from the voters at large.

(b) Term of Office

The town clerk shall serve for a term of four years beginning on the second Monday following election and continuing until a successor is qualified. (Amended by Town Council vote Dec. 1993 Approved by Act of Legislature May 31, 1994)

(c) Powers and Duties

The town clerk shall be the keeper of vital statistics of the town, the custodian of the town seal and of all records of the town, shall administer the oath of office to all town officers, shall issue licenses and permits as may be provided by law and shall be responsible for the conduct of elections and all matters relating thereto. The town clerk shall have the powers and duties provided that office by the laws of the Commonwealth, the charter, ordinance or other council vote.

(d) Clerk of the Council

Unless otherwise provided by the town council the town clerk shall be the clerk of the council and shall give notice of all meetings of the town council to its members and to the public, keep a record of its proceedings and perform such duties as may be assigned by the charter, by ordinance, or by other council vote.

Section 3-5 Town Collector

(a) Election

A town collector shall be elected by and from the voters at large.

(b) Term of Office

The town collector shall serve for a term of four years beginning on the second Monday following election and continuing until a successor is qualified. (Amended by Town Council vote Dec. 1993 Approved by Act of Legislature May 31, 1994.)

(c) Powers and Duties

The town collector shall be responsible for the collection of all accounts due and payable to the town. Town officials and town agencies, from time to time, shall commit to the town collector for collection all accounts due and payable to the town, listed against the parties obligated to assume and pay the same. The town collector shall pay over to the town treasurer all collections received with any sums received in interest. The town collector shall have the powers and duties provided that office by the laws of the Commonwealth, the charter, ordinance or other council vote.

Section 3-6 Housing Authority

(a) Composition, Election

There shall be a housing authority composed of five members. Four members shall be elected by and from the voters at large and the fifth member shall be appointed by the Secretary of Communities and Development of the Commonwealth.

(b) Term of Office

The terms of the housing authority members shall be four years beginning on the second Monday following election and continuing until their successors are qualified. Terms of office shall be so arranged that the terms of two members shall expire at each regular town election. (Amended by vote of Town Council Dec. 1993 - Approved by Act of Legislature May 31, 1994).

(c) Powers and Duties

The housing authority shall make studies of the housing needs of the town and shall provide programs for housing. The authority shall have all the powers and duties given to housing authorities under the laws of the Commonwealth.

Section 3-7 Filling Vacancies

If a vacancy occurs in the office of town clerk or town collector whether by failure to elect or otherwise, the town council shall, within thirty days following the date such vacancy is declared to exist, act to fill the said vacancy. The town council shall choose from among the voters, a person to serve for the balance of the unexpired term. Any person so chosen shall be sworn and commence to serve forthwith.

If a vacancy occurs in the membership of the school committee or housing authority whether by failure to elect or otherwise, the president of the town council shall, within thirty days following the date such vacancy is declared to exist, call a joint meeting of the town council and the remaining membership of whichever agency in which a vacancy is declared to exist, to act to fill the said vacancy. At any such joint meeting a majority of those present and voting shall choose from among the voters, a person to serve for the balance of the unexpired term. Any person so chosen shall be sworn and commence to serve forthwith. Participants in such joint meeting to fill a vacancy in the school committee or housing authority shall give consideration to whichever of the defeated candidates for the seat in which the vacancy is declared to exist who received the highest number of votes at the last regular town election immediately preceding the date the vacancy is declared to exist.

PART IV**Town Manager****Section 4-1 Appointment, Qualifications, Term of Office**

The town council shall appoint by a majority vote of the full council a town manager. The town manager shall be a person of proven administrative ability, especially qualified by education and training with prior experience as a city or town manager, or an assistant city or town manager or the equivalent public or private sector level experience. The town council may from time to time establish such additional qualifications as deemed necessary and appropriate.

The town manager shall devote full time to the duties of the office and shall not hold any other elective or appointive office, nor shall the town manager engage in any other business unless such action is approved in advance in writing by the town council.

The town manager need not be a resident of the town or of the Commonwealth at the time of appointment but shall establish residence within the town within six months following appointment, unless the town council shall extend such time.

Section 4-2 Powers of Appointment

Except as otherwise provided by this charter, the town manager shall appoint, based upon merit and fitness alone, all department heads, officers, subordinates, and employees for whom no other method of selection is provided in this charter except employees of the school department, airport commission and persons serving under officers elected directly by the voters of Barnstable.

All appointments made by the town manager are subject to the approval of the town council. In accordance with the procedures set forth in section 5-1, the town manager may be required, to consult with or engage in a joint recruitment and selection process with multiple member bodies, prior to the appointment of department heads or employees, who may provide policy advice, or support or receive direction from said multiple member bodies.

Section 4-3 Administrative Powers and Duties

The town manager shall be the chief administrative officer of the town and shall be responsible to the town council for the proper operation of town affairs for which the town manager is given responsibility under this charter. The powers, duties and responsibilities of the town manager shall include, but are not intended to be limited to, the following:

- (a) to supervise, direct and be responsible for the efficient administration of all officers appointed by the town manager and their respective departments and of all functions for which the town manager is given responsibility under this charter, by ordinance, or by vote of the town council.
- (b) to administer either directly or through a person or persons supervised by the town manager, in accordance with this charter, all provisions of general or special laws applicable to the town, all ordinances, and all regulations established by the town council.
- (c) to coordinate all activities of town departments or agencies.
- (d) to attend all regular and special meetings of the town council, unless excused, and to answer all questions addressed to the town manager which are related to matters under the general supervision of the town manager.
- (e) to keep the town council fully informed as to the needs of the town, and to recommend to the council for adoption such measures requiring action by them as the town manager deems necessary or expedient.
- (f) to insure that complete and full records of the financial and administrative activity of the town are maintained and to render reports to the town council as may be required.
- (g) to be responsible for the rental, use, maintenance and repair of all town facilities, except those under the jurisdiction of the school committee and the airport commission.
- (h) to be responsible for the purchase of all supplies, materials, and equipment, except books and other educational materials for schools and approve the award of all contracts, except contracts for educational materials.
- (i) to develop and maintain a full and complete inventory of all town owned real and personal property.
- (j) to administer personnel policies, practices, or rules and regulations, any compensation plan and any related matters for all town employees and to administer all collective bargaining agreements, except for school department agreements, entered into by the town.
- (k) to fix the compensation of all town employees and officers appointed by the town manager within the limits established by appropriation and any applicable compensation plan.
- (l) to be responsible for the negotiation of all contracts with town employees over wages, and other terms and conditions of employment, except employees of the school department and the airport commission. The town manager may employ special counsel to assist in the performance of these duties. Insofar as they require appropriations, contracts shall be subject to the approval of the town council. (Amended by Town Council item 91-119 on 6/6/91; amendment approved by voters on 11/5/91).
- (m) to prepare and submit an annual operating budget, capital improvement program and a long term financial forecast as provided in Part VI of this charter.
- (n) to keep the town council fully informed as to the financial condition of the town and to make recommendations to the town council as the town manager determines necessary or expedient.
- (o) to investigate or inquire into the affairs of any town department, agency or office.
- (p) to delegate, authorize or direct any subordinate or employee of the town to exercise any power, duty or responsibility which the office of town manager is authorized to exercise, provided, that all acts that are performed under such delegation shall be considered to be the acts of the town manager.
- (q) to perform such other duties as necessary or as may be assigned by this charter, by ordinance, or by vote of the town council.

Section 4-4 Compensation

The town manager shall receive such compensation for services as the town council shall determine, but such compensation shall be within the limits of available appropriations.

Section 4-5 Vacancy in Office

Any vacancy in the office of town manager shall be filled as soon as possible by the town council. Pending appointment of the town manager or the filling of any vacancy, the council shall forthwith appoint some other qualified person to perform the duties of the town manager. The appointment of the acting town manager shall be for a term not to exceed three months, provided however, a renewal, not to exceed an additional three months may be provided.

Section 4-6 Temporary Absence

The town manager may designate by letter filed with the town council and town clerk a qualified officer of the town to perform the duties of the town manager during a temporary absence or disability. The town council may not revoke such designation until at least fourteen days have elapsed whereupon it may appoint such other person 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 town council, the town council may designate some other qualified person to perform the duties of the town manager until the town manager shall return.

Section 4-7 Removal of Town Manager

The town council by affirmative vote of a majority of the full council may vote to terminate, remove or suspend the town manager from office in accordance with the following procedure: Prior to removal or termination the town council shall adopt a preliminary resolution of removal by the affirmative vote of a majority of the full council. The preliminary resolution may suspend the town manager for a period not to exceed thirty days. A copy of the resolution shall be delivered to the town manager forthwith.

If so requested by the town manager, town council shall provide a written statement setting forth the reasons for the removal or termination.

Within five days after the receipt of the preliminary resolution, the town manager may request a public hearing by filing a written request for such hearing with the town council. If such a hearing is requested, the hearing shall be held at a meeting of the town council not later than twenty days from the date of request. At such hearing the town manager shall be entitled to address the town council and make comments related to the preliminary resolution.

If a public hearing has not been requested by the town manager, the town council may adopt a final resolution of removal, which may be effective immediately, by the affirmative vote of a majority of the full council at any time after ten days following the date of delivery of a copy of the preliminary resolution to the town manager. If the town manager requests a public hearing, the town council may, at the conclusion of the hearing or within five days of the conclusion of the hearing, adopt a final resolution of removal by an affirmative vote of majority of the full council.

The town council may suspend by an affirmative vote of the majority of the full council, the town manager pending and during any public hearing as requested by the town manager. The town manager shall continue to receive a salary until the final date of removal shall become effective unless provided otherwise. The action of the town council in terminating, removing or suspending the town manager shall be final.

Section 4-8 Annual Review of the Town Manager

Annually the town council shall prepare and deliver to the town manager a written evaluation of the town manager's performance.

PART V**Administrative Organization****Section 5-1 Organization of Town Agencies****(a) Methods of Organization**

The organization of town into operating agencies for the provision of services and the administration of government may, pursuant to charter powers granted in section twenty of chapter 43B of the General Laws, be accomplished through either of two methods provided in this part.

(1) Ordinance

Subject only to the express prohibitions in laws of the Commonwealth or the provisions of this charter, the town council may by ordinance, reorganize, consolidate, create, merge, divide or abolish any town agency, in whole or in part, establish such new town agencies as it deems necessary or advisable, determine the manner of selection, the term of office and prescribe the functions of all such agencies.

(2) Executive Reorganizations

The town manager may from time to time prepare and submit to the town council plans of organization or reorganization which establish operating divisions for the orderly, efficient or convenient conduct of business of the town. Whenever the town manager prepares such plan, the town manager shall hold one or more public hearings on the proposal giving notice by publication in a local newspaper, which notice shall describe the scope of the proposal and the time and place at which the public hearing will be held, not less than seven nor more than fourteen days following the date of said publication. Following such public hearing, the proposal, which may have been amended by the town manager subsequent to the public hearing, shall be submitted to the town council.

An organization or reorganization plan shall become effective at the expiration of the sixty days following the date of submission of such proposal to the town council unless the town council shall, by a majority vote, vote to disapprove the plan. The town council may vote only to approve or disapprove the plan and no vote to amend or alter it shall be deemed in order.

The town manager may propose reorganization plans and subject only to express prohibitions in the laws of the Commonwealth or this charter, reorganize, consolidate or abolish in whole or in part townn agencies, or establish such new town agencies as is deemed necessary to the same extent as is provided in section 51(a)(1) above, for ordinances; 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 council, transfer the appropriation of one town agency to another.

(b) Repetitive Proposals

Whenever a reorganization proposal becomes effective, whether under the provisions of section (1) or (2), no proposal to again reorganize which deals with substantially the same subject matter shall be acted upon within eighteen months following the first reorganization, except on the petition of the town manager.

(c) 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 ordinances of the Town of Barnstable.

Section 5-2 Personnel Administration

The Town Manager shall adopt rules and regulations establishing a personnel system. The personnel system shall make use of modern concepts of personnel management and may include, but not be limited to, the following elements: a method of administration; personnel policies indicating the rights, obligations and benefits of employees; a classification plan; a compensation plan; a method of recruiting and selecting employees based upon merit principles; a centralized record keeping system; a performance evaluation system; disciplinary procedures; and other elements that are determined necessary. All town agencies and positions shall be subject to the rules and regulations adopted under this section excluding employees of the school department, the libraries of the town and the airport commission.

PART VI**Financial Procedures****Section 6-1 Annual Budget Policy**

The president of the town council shall call a joint meeting of the town council and school committee prior to the commencement of the budget process to review the financial condition of the town, revenue and expenditure forecasts and other relevant information in order to develop a coordinated budget. The town manager and superintendent of schools shall be required to develop an annual policy agreement on the allocation of the projected revenue between the general government operations and the school department operations. Said agreement shall be subject to review of the school committee and the town council.

CFAC SHOULD ALSO BE A PARTICIPANT IN THE MEETING AND REVIEW PROCESS RELATED TO THE BUDGET.

Section 6-2 Submission of Budget; Budget Message

Within the period prescribed by the laws of the Commonwealth, the town manager shall submit to the town council a proposed operating budget for all town agencies, which shall include the school budget as adopted by the school committee, for the ensuing fiscal year with an accompanying budget message and supporting documents. The budget message submitted by the town manager shall explain the budget in fiscal terms and in terms of work programs for all town agencies. It shall outline the proposed fiscal policies of the town for the ensuing fiscal year; describe important features of the proposed budget and indicate any major variations from the current budget, fiscal policies, expenditures and revenues together with reasons for such change. The proposed budget shall provide a complete fiscal plan of all town funds and activities and shall be in the form the town manager deems desirable.

The budget as adopted by the school committee shall be submitted to the town manager at least thirty days prior to the submission of the proposed budget to the town council.

THE BUDGET MESSAGE SHOULD INCLUDE THE REPORT OF CFAC AND ALL FINANCIAL RECOMMENDATIONS OF CFAC MUST BE DISCLOSED AND DISCUSSED BY THE TOWN MANAGER IN THE BUDGET MESSAGE.

Section 6-3 Action of the Budget**(a) Public Hearing**

The town council shall publish in a newspaper of general circulation in the town a summary of the proposed operating budget as submitted by the town manager by a notice stating: (1) the times and places where copies of the entire proposed budget are available for inspection by the public, and (2) the date, time and place not less than fourteen days after such publication, when a public hearing on said proposed budget will be held by the town council. For the purpose of this section the summary of the proposed operating budget that is required to be published shall contain proposed appropriations, funding sources and any narrative summary deemed necessary by the town council.

(b) Adoption of the Budget

The town council shall adopt the budget, with or without amendments, within forty-five days following the date the budget is filed with the clerk of the council. In amending the budget, the town council may delete or decrease any programs or amounts except expenditures required by law or for debt service, but except on the recommendation of the town manager, the town council shall not increase any item in or the total of the proposed budget, unless otherwise authorized by the laws of the Commonwealth.

If the town council fails to take action with respect to any item in the budget within forty-five days after receipt of the budget, such amount shall, without any action by the town council become a part of the appropriations for the year, and be available for the purposes specified.

Section 6-4 Supplementary Budgets and Appropriations

Comprehensive Financial Advisory Committee

Whenever the town manager shall submit to the town council a request for an appropriation of any sum of money, whether as a supplement to the annual operating budget or for an item or items not included therein, the town council shall not act upon such request until it has (a) given notice by publication in a local newspaper of the request, and (b) held a public hearing concerning such request. The publication and the public hearing shall be in conformity with the provisions of section 6-3(a) concerning the proposed annual operating budget.

ANY SUPPLEMENTARY BUDGETS AND APPROPRIATIONS MUST BE REVIEWED AND APPROVED BY CFAC.

Section 6-5 Capital Improvements Plan

(a) Preparation

The town manager shall, in conjunction with any committee established for such purpose, annually submit a capital improvement program to the town council at least thirty days prior to the date for submission of the operating budget, unless some other time is provided by ordinance.

(b) Contents

The capital improvement plan shall include: (1) a clear summary of its contents; (2) an itemization of all capital improvements, including those of the school department, proposed to be undertaken during the next five fiscal years with supporting data; (3) cost estimates, method of financing, and recommended time schedules; and, (4) the estimated annual cost of operating and maintaining the facilities included.

(c) Public Hearing

The town council shall publish in a newspaper of general circulation in the town a summary of the capital improvement plan and a notice stating: (1) the times and places where entire copies of the capital improvement plan are available for inspection by the public; and, (2) the date, time and place not less than fourteen days after such publication, when a public hearing on said plan will be held by the town council.

(d) Adoption

At any time after the public hearing but before the first day of the last month of the current fiscal year, the town council shall by resolution adopt the capital improvement plan with or without amendment, provided that each amendment must be voted separately and that any increase in the capital improvement plan as submitted must clearly identify the method of financing proposed to accomplish this increase.

THE CAPITAL IMPROVEMENT PLAN WILL BE JOINTLY DEVELOPED BY THE TOWN MANAGER AND CFAC.

Section 6-6 Long Term Financial Forecast

The town manager shall annually prepare a ten year financial forecast of town revenue, expenditures and the general financial condition of the town. The forecast shall include, but not be limited to, an identification of factors which will impact on the financial condition of the town, revenue and expenditure trends; potential sources of new or expanded revenues and any long or short term actions which may be taken that will enhance the financial condition of the town. The forecast shall be submitted to the town council and shall be available to the public for inspection.

THE LONG TERM FINANCIAL FORECAST SHOULD BE LIMITED TO FIVE YEARS AND SHOULD BE JOINTLY DEVELOPED BY THE TOWN MANAGER AND THE CFC. BASED ON THE VOLATILITY IN TODAY'S MARKETS AND TECHNOLOGIES, A TEN YEAR FORECAST IS OF LITTLE VALUE.

Section 6-7 Annual Audit

The town council shall provide for an annual audit of the books and accounts of the town to be made by a certified public accountant, or firm of accountants, who have no personal interest, direct or indirect, in fiscal affairs of the town government or any of its offices.

Section 6-8 Financial Management Standards

The town council may by ordinance establish reasonable standards relating to the management of financial systems and practices. Any standards adopted shall conform to modern concepts of financial management.

PART VII**Nominations and Elections****Section 7-1 Town Elections; General and Preliminary**

The regular town election shall be held on the first Tuesday following the first Monday in November of each odd-numbered year.

On the seventh Tuesday preceding every regular town election, there shall be held a preliminary election for the purpose of nominating candidates.

(Amended by Town Council item #93-106; Amendment passed by Act of Legislature August 6, 1993).

HOLDING PRELIMINARY ELECTIONS SEEMS TO BE A WASTE OF TAXPAYER AND CANDIDATE FUNDS AND CFAC RECOMMENDS THAT PRELIMINARY ELECTIONS BE ELIMINATED.

Section 7-2 Preliminary Elections**(a) Signature Requirements**

The number of signatures of voters required to place the name of a candidate on the official ballot to be used at a preliminary election shall be as follows: For an office which is to be filled by vote of the whole town, not less than one hundred and fifty. For an office which is elected by the voters in a precinct, not less than twenty-five signatures from said precinct.

(b) Ballot Position

The order in which names of candidates appear on the ballot for each office shall be determined by a drawing by lot conducted by the town clerk in the presence of such candidates or their representatives as may choose to attend such drawings.

(c) Determination of Candidates for Election

The two persons receiving at a preliminary election the highest number of votes for nomination for an office shall be the sole candidates for that office whose names may be printed on the official ballot to be used at the regular election at which such office is to be filled, and no acceptance of a nomination at a preliminary election shall be necessary to its validity.

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

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

(d) Nomination of Candidates; Conditions Making Preliminary Election Unnecessary

If at the expiration of the time for filing petitions of candidates to be voted for at any preliminary election, not more than twice as many such petitions have been filed with the town clerk for an office as are to be elected to such office, the candidates whose petitions have thus been filed shall be deemed to have been nominated to said office and their names shall be voted on for such office at the succeeding regular election, and the town clerk shall not print said names upon the ballot to be used at said preliminary election and no other nomination to said office shall be made. If in consequence it shall appear that no names are to be printed upon the official ballot to be used at any preliminary election in any precinct or precincts of the town, no preliminary election shall be held in any such precinct or precincts.

CFAC RECOMMENDS THAT THIS SECTION (7.2) BE ELIMINATED.

Section 7-3 Regular Election

(a) Information to Voters

If the candidate in a regular town election is an incumbent of the office to which he seeks election, against his name shall appear the phrase "candidate for re-election."

(b) Ballot Position

The order in which names of candidates appear on the ballot for each office in a regular town election shall be determined by a drawing by lot conducted by the town clerk in the presence of such candidates or their representatives as may choose to attend.

Section 7-4 Precincts

The territory of the town shall be divided into precincts so established as to consist of as nearly equal a number of inhabitants as it is possible in compact and contiguous territory; bounded insofar as possible by the center line of known streets or ways or by other well defined limits.

Section 7-5 Application of State Laws

Except as expressly provided in the charter and authorized by statute, all town elections shall be governed by the laws of the commonwealth relating to the right to vote, the registration of voters, the nomination of candidates, the conduct of preliminary and regular elections, the submission of charter amendments and other propositions, the counting of votes and the declaration of results.

PART VIII

Citizen Relief Mechanisms (Free Petition; Initiative; Referendum; Recall, Open Meeting)

Section 8-1 Citizen Initiative Measures

(a) Commencement of Proceedings

Initiative procedures shall be started by the filing of an initiative petition with the town clerk. The petition shall be addressed to the town council or the school committee, shall contain a request for passage of a particular measure set forth in the petition and shall be signed by not less than ten percent of the total number of voters.

Signatures to initiative petitions need not be all on one paper. All such papers pertaining to any one measure shall be fastened together and shall be filed in the office of the town clerk as one instrument, with the endorsement thereon of the names and addresses of the persons designated as filing the same. With each signature to the petition, shall be stated the place of residence of the signer, giving the street and number, if any.

Within ten days of the filing of said petition the registrars of voters shall ascertain by what number of voters the petition is signed, and shall attach thereto their certificate showing the result of such examination.

The town clerk shall forthwith transmit the said certificate with the said petition to the town council or to the school committee, as appropriate, and at the same time shall send a copy of said certificate to the persons designated on the petition as filing the same.

When such certificate has been so transmitted, said petition shall be deemed to be valid unless written objections are made with regard to the signatures thereon by a voter within forty-eight hours after such certification by filing such objections with the town council or the school committee, and a copy thereof with the registrars of voters. Any such objection shall be determined forthwith.

(b) Referral to Town Attorney

If the town clerk determines that a sufficient number of signers are voters, the town clerk shall transmit a copy of the petition to the town attorney.

Within fifteen days after receipt by the town attorney of the petition the town attorney shall advise the town clerk in writing whether the measure may be proposed by initiative procedures and whether it may lawfully be passed by the town council or the school committee. If the opinion of the town attorney is that the measure may not lawfully be passed, the town attorney shall state the reason or reasons therefor in said reply. The town clerk shall forthwith furnish a copy of the town attorney's opinion to the person designated on the petition as filing the same.

(c) Initiative Petition; Requirements For Passage and Submission To Electorate

If any initiative petition is signed by voters equal in number to at least ten percent of the total number of voters, and in the opinion of the town attorney, such measure may lawfully be passed by the town council or the school committee, the town council or the school committee within twenty days after the date of the certificate of the registrars to that effect: (1) may pass said measure without alteration, subject to the referendum vote provided by this charter; or, (2) the town council shall call a special election to be held on a date fixed by it not less than thirty nor more than forty-five days after the date of the certificate hereinbefore mentioned, and shall submit the proposed measure without alteration to a vote of the voters at that election; provided, that if any town election is otherwise to occur within one hundred and twenty days after the date of said certificate, the town council may, at its discretion, omit the calling of a special election and submit the proposed measure to the voters at such approaching election.

The ballots used when voting upon a proposed measure under this section shall state the nature of the measure in terms sufficient to show the substance thereof.

Section 8-2 Citizen Referendum Procedures

Referendum Petition; Effect on Final Passage

If within ten days after the final passage of any measure a petition signed by voters equal in number to at least five per cent of the total number of voters, and addressed to the town council or to the school committee, as the case may be, protesting against such measure or any part thereof taking effect, is filed with the town clerk, the same shall thereupon and thereby be suspended from taking effect; and the town council or the school committee, as the case may be, shall immediately reconsider such measure or part thereof; and if such measure or part thereof is not entirely rescinded the town council shall submit the same, by the method herein provided, to a vote of the voters either at the next regular town election, or at a special election which may, in its discretion, be called for the purpose and such measure or part thereof shall forthwith become null and void unless a majority of the voters voting on the same at such election vote in favor thereof. The petition described in this section shall be termed a referendum petition and section 8-1(a) shall apply to the procedure in respect thereto, except that the words "measure or part thereof protested against" shall for this purpose be understood to replace "measure" in said section whenever it may occur, and "referendum" shall be understood to replace the word "initiative" in said section.

Section 8-3 Required Voter Participation

For any measure to be effective under initiative procedure and for any measure to be declared null and void under any referendum procedure at least twenty percent of the voters shall vote at an election upon which an initiative or referendum question is submitted to the voters.

Section 8-4 Measures Not Subject to Initiative and Referendum

Measures which include the following subject matter shall not be subject to initiative and referendum procedures: (a) revenue loan orders; (b) appropriations for the payment of debt or debt service; (c) internal operational procedures of the town council and the school committee; (d) emergency measures; (e) the town budget as a whole or the school committee budget as a whole; (f) appropriation of funds to implement a collective bargaining agreement; (g) procedures relating to election, appointment, removal, discharge or any other personnel action; and (h) proceedings providing for the submission or referral of a matter to the voters at an election.

Section 8-5 Submission of Proposed Measure to Voters

The town council may, of its own motion, and shall, upon request of the school committee if a measure originates with that committee and pertains to the affairs under its administration, submit to a vote of the voters for adoption or rejection at a general or special town election any proposed measure, or a proposition for the repeal or amendment of any measure, in the same manner and with the same force and effect as are hereby provided for submission on petition.

Section 8-6 Measures with Conflicting Provisions

If two or more proposed measures passed at the same election contain conflicting provisions, only the one receiving the greater number of affirmative votes shall take effect.

Section 8-7 Free Petition

(a) Individual Petitions, Action Discretionary

The town council and the school committee shall receive all petitions which are addressed to them and signed by a voter and may, in their discretion, take such action with regard to such petitions as they deem necessary and appropriate.

(b) Group Petitions; Action Required

The town council or the school committee, as the case may be, shall hold a public hearing and act by taking a vote on the merits of every petition which is addressed to it and which is signed by at least one-hundred fifty voters. The hearing shall be held by the town council or the school committee, or, in either case, by a committee or subcommittee thereof and the action by the town council or school committee shall be taken not later than three months after the petition is filed with the town clerk. Hearings on two or more petitions filed under this section may be held at the same time and place. The town clerk shall mail notice of the hearing to ten petitioners whose names first appear on each petition at least seven days before the hearing. Notice by publication at least seven days prior to all such hearings shall also be made, and shall be at public expense. No hearing shall be heard upon any one subject more than once in any given twelve month period.

Section 8-8 Recall of Elected Office Holders

(a) Application

Any holder of an elected office in the town, with more than six months remaining in the term of office for which the officer was elected, may be recalled therefrom by the voters of the town in the manner provided in this section. No recall petition shall be filed against an officer within six months after taking office.

(b) Recall Petition

A recall petition may be initiated by the filing of an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall, provided that, the affidavit is signed by at least one hundred voters for any officer elected at large and at least fifty voters for any officer elected by precinct.

The town clerk shall thereupon deliver to said voters making the affidavit, copies of petition blanks demanding such recall, copies of which printed forms the town clerk shall keep available. Such blanks shall be issued by the town clerk, with signature and official seal attached thereto.

They shall be dated, shall be addressed to the town council and shall contain the names of all the persons to whom they are issued, the number of blanks so issued, the name of the person whose recall is sought, the office from which removal is sought and the grounds of recall as stated in the affidavit. A copy of the petition shall be entered in a record book to be kept in the office of the town clerk. Said recall petition shall be returned and filed with the town clerk within ten days after the filing of the affidavit, and shall have been signed by at least ten per cent of the registered voters of the town for any officer elected at large. For any officer elected by precinct, said recall petition shall be returned and filed with the town clerk within ten days after the filing of the affidavit, and shall have been signed by at least ten per cent of the voters from the precinct the officer to be recalled represents.

The town clerk shall forthwith submit the petition to the registrars of voters in the town, and the registrars shall, within five working days, certify thereon the number of signatures which are names of registered voters of the town.

(c) Recall Election

If the petition shall be found and certified by the town clerk to be sufficient, the town clerk shall submit the same with such certificate to the town council within five working days, and the town council shall forthwith give written notice of the receipt of the certificate to the officer sought to be recalled and shall, if the officer does not resign within five days thereafter, order an election to be held on a date fixed by them not less than forty-five and not more than sixty days after the date of the town clerk's certificate that a sufficient petition has been filed; provided, however, that if any other town election is to occur within sixty days after the date of the certificate the town council shall postpone the holding of the recall election to the date of such other election.

The recall election for any officer elected by precinct, shall only be held in the precinct that the officer represents.

If a vacancy occurs in said office after a recall election has been ordered, the election shall not proceed as provided in this section.

(e) Office Holder

The incumbent shall continue to perform the duties of the office until the recall election. If said incumbent is not recalled, the incumbent shall continue in office for the remainder of the unexpired term subject to recall as before. If recalled the officer shall be deemed removed and the office vacant. The vacancy created thereby shall be filled in accordance with this charter. Any person appointed to fill the vacancy caused by such recall shall hold office for the unexpired term of the officer recalled.

(f) Ballot Proposition

The form of the question to be voted upon shall be substantially as follows: "Shall [here insert the name and title of the elective officer whose recall is sought] be recalled?"

If a majority of the votes cast upon the question of recall is in the affirmative, such elected officer shall be recalled.

No recall election shall be effective unless at least twenty percent of those entitled to vote shall have voted.

(g) Repeat of Recall

In the case of an officer subjected to a recall election and not recalled thereby, no recall petition shall be filed against such officer until at least sixty days after the election at which the officer's recall was submitted to the voters of the town.

(h) Office Holder Recalled

No person who has been recalled from an office or who has resigned from office while recall proceedings were pending against such person, shall be appointed to any town office within one year after such recall or such resignation.

Section 8-9 Open Meeting of the Voters

The town council may call meetings of the voters of the town. Upon the request in writing of three hundred voters setting forth the purpose (the specific purposes) thereof, the town council shall call a meeting of the voters. The president of the town council or other designee of the town council, shall preside and regulate the proceedings of such meetings. The president of the council shall cause the attendance of town officials and employees necessary to respond to the issues and concerns raised by petitioners.

PART IX

General Provisions

Section 9-1 Charter Revision or Amendment

The charter may be replaced, revised or amended in accordance with any procedure made available by Article LXXXIX of the Amendments to the Constitution of the Commonwealth and any laws of the Commonwealth enacted to implement said constitutional amendment.

Section 9-2 Severability

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

Section 9-3 Rules of Interpretation

The following rules shall apply when interpreting the charter:

(a) Specific Provisions to Prevail

To the extent that any specific provision of the charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.

(b) Number and Gender

Words imparting the singular number may extend and be applied to several persons or things; words imparting the plural number may include the singular; words imparting the masculine gender shall include the feminine gender.

(c) References to General Laws

All references to the general laws or the laws of the Commonwealth contained in the charter refer to the general laws of the Commonwealth of Massachusetts and are intended to include any amendments or revisions to such chapters and sections or to the corresponding chapters and sections of any rearrangement of the general laws enacted subsequent to the adoption of the charter.

(d) Computation of Time

In computing time under the charter, if seven days or less, only business days, not including Saturdays, Sundays, or legal holidays shall be counted; if more than seven days, every day shall be counted.

Section 9-4 Definitions

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

(a) Administrative Code -The term "administrative code" shall mean a written description of the administrative organization of town offices, departments and multiple member bodies. The administrative code shall state the mode of selection, term of office and general powers and duties of each town office department and multiple member body.

(b) Charter -The word "charter" shall mean this charter and any amendments to it made through any methods provided under Article LXXXIX of the Amendments to the Constitution of the Commonwealth.

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

(d) Town -The word "town" shall mean the town of Barnstable.

(e) Voters -The word "voters" shall mean registered voters of the town.

(f) Majority Vote -- The words "majority vote" shall mean a majority of those present and voting, provided a quorum is present when a vote is taken, unless a higher number is required by law, this charter, or by the town council's own rules.

(g) Town Agency or Agency -The words "town agency" or the word "agency" shall mean any board, commission, committee, department or office of town government, whether elected, appointed or otherwise constituted.

(h) Multiple Member Body -The words "multiple member body" shall mean any board, commission or committee.

Section 9-5 Removal of Member of Multiple Member Bodies

Any officials appointed by the council to a multiple member body may be removed from office by the town council if said official fails to attend regularly scheduled meetings for a period of three consecutive months without express leave from the chairman of such multiple member body, unless the town council shall determine otherwise. Any such appointed official shall be automatically removed from office if such person is convicted of a felony or if such person is absent from such duties for the period of one year notwithstanding the permission from the chairman to be absent.

PART X

Transitional Provisions

Section 10-1 Continuation of Existing Laws

All bylaws, resolutions, rules, regulations, and votes of the town meeting 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 laws of the Commonwealth, 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 10-2 Existing Officials and Employees

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. Each such person shall be retained in a capacity as similar to the person's former capacity as is practical.

Section 10-3 Continuation of Government

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. It is the intention of the charter commission that the present relationship of the town with the libraries of the town shall continue.

Section 10-4 Continuation of Obligations

All official bonds, obligations, contracts and other instruments entered into or executed by or to the town before the adoption of this charter, and all taxes, special assessments, fines, penalties, forfeitures incurred or imposed, due or owing to the town, 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 this charter. No legal act done by or in favor of the town shall be rendered invalid by the adoption of this charter.

Section 10-5 Transfer of Records and Property.

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

Section 10-6 Authority to Reorganize

For the purpose of the authority to reorganize town offices, departments and agencies as provided for in section 5-1 of this charter, Chapter 274 of the Acts of 1931, as most recently amended by Chapter 296 of the Acts of 1976 (An Act providing that the Board of Sewer Commissions in the Town of Barnstable be known as the Water Pollution Control Board) and provisions of previous charters, chapter 76 of the acts of 1981 (An Act Establishing the Sandy Neck Governing Board of the Town of Barnstable) and chapters 215 (An Act Establishing A Department of Planning and Development, An Economic and Community Development Commission, a Planning Board , and a Zoning Board of Appeals in the Town of Barnstable) and 295 of the Acts of 1984 (An Act Relative to The Zoning Board of Appeals of the Town of Barnstable) shall be deemed to be part of the town ordinances and may be amended, repealed or revised in accordance with the provisions of section 5-1. Notwithstanding any provision of this charter to the contrary the airport commission, if any, shall have all the powers, duties and responsibilities as provided in General Law, chapter 90. (Town Council amended by item 91-121 passed unanimously 6/6/91 - Amendment approved by voters 11/5/1991).

Section 10-7 Time of Taking Effect

This charter shall become fully effective upon ratification by the voters, except as otherwise provided in this section:

- (a) A special election to elect the first officers under this charter shall be held on the third Tuesday in July following the adoption of this charter. A preliminary election to nominate candidates shall
Comprehensive Financial Advisory Committee

be held on the fourth Tuesday preceding such special election. At such election the voters shall elect the town council, two members of the school committee and the housing authority. Precincts having been recently realigned, there shall be two councilors elected from each of the nine precincts. The eighteen members of the town council shall be elected at said special election in the following manner: in each precinct the candidate receiving the highest number of votes shall be elected for a term of four years and the other candidate elected shall serve a term of two years, thereafter, at the expiration of terms of four years as provided in section 2-1.

The terms of office of the two incumbent members of the school committee elected for terms of offices which were intended to expire at the annual town election in 1990, shall be terminated and their successors shall be elected at the special election to elect the first officers under this chapter. At such special election the candidate receiving the highest number of votes shall be elected to serve a term of four years and the other candidate shall be elected to serve a term of two years and thereafter upon the expiration of said terms of office candidates shall be elected for terms of four years in accordance with section 3-3 of this charter.

The two incumbent members of the school committee who are elected for terms of office at the annual town election held in April 1989 shall have their terms of office extended to the regular town election to be held in November 1993 at which time their successors shall be elected. At such regular election the candidates shall be elected for terms of four years in accordance with section 3-3 of this charter.

The term of office of the incumbent member of the school committee who is elected to fill an unexpired term of office at the annual town election in April 1989 shall be extended to the regular town election to be held in November 1991 and at such time a successor shall be elected to serve a term of four years in accordance with section 3-3 of this charter.

At such special election the term of the four elected incumbent members of the housing authority shall terminate and their successors shall be elected. The two candidates receiving the highest number of votes shall be elected for terms of four years and the two other candidates elected shall serve terms of office members shall be elected for terms of four years as provided in section 3-7.

In the year in which this charter is adopted a regular municipal election shall not be held in accordance with section 7-1 of this charter. Terms of office of any officer elected for a term of two years at said special election shall be extended to expire at the organization of town government after the regular town election for a term of four years at said special election shall be extended to expire at the organization of town government after the regular town election in November 1993.

(b) The incumbent in the office of tax collector (town collector) shall continue to serve in said office and the term of office of said tax collector shall be extended to the regular town election held after the adoption of this charter in 1991 at such time the office of town collector shall be elected in accordance with section 3-6 of this charter.

(c) The incumbent serving in the office of treasurer and office of town clerk shall continue to serve in said offices and the term of such offices shall be extended to the regular town election held after the adoption of this charter in 1993, at such time the office of town clerk shall be elected in accordance with section 3-5 of this charter. Upon the adoption of the charter the office of town treasurer shall become an appointive position and the incumbent in the said office shall continue in office until a successor is appointed in accordance with section 4-2. Upon the appointment of the treasurer, the town manager, the town clerk, the director of finance, and the personnel director shall come together to evaluate the staffing needs of each entity (the town clerk and the treasurer), and shall divide the existing staff in the town clerk/treasurers office in such a way as to provide adequate staff coverage for each function.

Requests for additional staffing which may be required as a result of the division of these offices shall be forwarded to the town council by the town manager as soon as possible after said division of staff.

(d) As soon as possible following the election the town clerk shall call together persons elected to the town council for the purpose of taking their oaths of office, to choose a president and vice

president of the town council and to adopt any temporary rules governing the conduct of meetings of the town council.

(e) Following the organization meeting of the town council, the town council shall prepare to assume its full powers, duties and responsibilities which will devolve upon the town council under this charter by undertaking the following tasks:

- (1) The council president shall as soon as practicable appoint a committee of the council to develop rules and regulations governing the conduct of council meetings and business. Said committee shall propose such rules and regulations for review and adoption by the council as a whole within forty-five days following the organization of government.
- (2) (2) The town council shall establish a process for the selection of the town manager which shall enable the council to appoint a town manager by the first day of March or as soon as practical thereafter; provided, however, the town council shall if it has not appointed a town manager by the first day of March appoint an acting town manager in accordance with section 4-5 of this charter; (3) The town council shall provide for a review of all bylaws to bring them into conformity with the charter.

(f) The representative town meeting in office at the time of the election shall continue to conduct all the legislative business of the town until the full power of the town council shall become operative on the first secular day of January following the election of the council. On the first secular day of January the terms of office of all members of the representative town meeting shall be terminated and the representative town meeting shall cease to exist. The office of the moderator shall cease to exist on said first secular day of January. The powers of the town council shall become fully effective upon said first secular day of January.

(g) The board of selectmen shall continue to be responsible for the general operation and business of town government and shall continue to perform all of the powers, duties and responsibilities of the office until the first day of March at which time the board of selectmen shall have only the powers granted to boards of assessors under the laws of the Commonwealth. The board of selectmen in office at the time of the election establishing the town council shall continue to serve in that office until the first day of March in the year following the adoption of this charter and as of said first day of March the terms of office of all members of the board of selectmen shall be terminated and the board of selectmen shall cease to exist as the board of selectmen, except that the board shall continue to have powers of and to act as the board of assessors and shall be called the board of assessors. The persons serving as members of the board of assessors shall continue to serve until such time as successors are appointed by the town council. If, at any time after the election establishing the town council, more than one member of the board of selectmen shall resign from office, the town council shall have the power to appoint an acting town manager in accordance with section 4-5 of this charter and the powers of the board of selectmen shall be limited to those of the board of assessors.

The members of the board of selectmen in office at the time of the election shall continue to be compensated in the current manner until the last day of March in the year following the adoption of this charter.

(h) The preparation of the operating and capital budgets shall continue to be prepared in the manner that is now provided for except that the finance committee and the capital outlay committee shall submit their recommendations to the town council no later than the first day of April in the year following the adoption of this charter. The finance committee shall cease to exist on the first day of May in the year following the adoption of this charter.

(i) Subject to appropriation, members of the town council shall receive \$1,500 per annum and the president of the council shall receive \$2,000 per annum. These amounts shall continue until such amount is changed by the town council in accordance with provisions of this charter.

(j) Subject to appropriation, the initial salary of the town manager shall not be less than \$60,000.

(k) Until such time as another form of organization is established in accordance with section 5-1 of this charter the following organization shall be in effect in the town of Barnstable:

(1) The town manager shall appoint subject to the approval of the town council:

a town attorney
a town accountant/director of finance
a town treasurer
a police chief
a director of personnel
a building commissioner
a director of civil defense
an inspector of animals
the constables
a dog officer
the fence viewers
a forest fire warden
a gas inspector
a harbor master
and, all other officers, department heads, and employees for whom no other method of appointment is provided.

(2) The town manager shall appoint subject to the approval of the town council:

a superintendent of public works after consultation with the public works commission.
a director of recreation after consultation with the recreation commission.
a director of planning and development after consultation with the planning board and zoning board of appeals;
a conservation agent after consultation with the conservation commission;
a health agent after consultation with the board of health
a chief ranger after consultation with the Sandy Neck governing board;
a director of assessing after consultation with the board of assessors; and,
a director of the council on aging after consultation with the council on aging.

For the purpose of this section consultation shall mean that each multiple member body cited herein shall have an opportunity to interview job candidates and make recommendations to the town manager.

Appointments made by the town manager shall be for the same term of office as currently provided for, until other provisions are made in accordance with this charter.

(3) The town council shall appoint:

a board of assessors
a planning board
a conservation commission
a zoning board of appeals
a council on aging
an airport commission
a capital outlay and planning committee
a Sandy Neck governing board except those members that are appointed by another multiple member body;
a government study committee
a board of health
an historical commission
a public works commission
a recreation commission
a town library committee nominated by the boards of the libraries of the town
and, all other multiple member bodies for whom no other method of appointment is provided.

CFAC SHOULD BE INCLUDED UNDER THE CHARTER AS A COMMITTEE APPOINTED BY THE TOWN COUNCIL

Appointments made by the town council shall be for the same term of office, and the same number of members for each multiple member body as currently provided for, until other provisions are made in accordance with this charter.

(l) The town manager shall review the organization of the town government and prepare an administrative code in accordance with section 5-1 of this charter. The town manager shall submit said administrative code to the town council within six months of appointment.

(m) The town council shall within sixty days after assuming its full powers file a special act with the Great and General Court of the Commonwealth to provide that civil service coverage is not extended beyond the coverage that is already granted to selected employees or employee groups of the town. The town shall also review and consider other laws of the Commonwealth which may affect the town as a result of the adoption of this charter and file any special legislation as deemed necessary.

(n) The town council shall commission a study of all the water and fire districts within the town of Barnstable. The purpose of said study is to evaluate the advantages and or disadvantages of such a consolidation, as well as evaluating the economic feasibility and viability of consolidating such districts. Said study shall be completed within two years of the creation of the town council.

(o) Until such time as provided otherwise by ordinance the recreation commission shall have jurisdiction over playgrounds and athletic fields, including those under the jurisdiction of the school committee except during the regular school year or at other times when such facilities are reserved for use for Town of Barnstable school activities.

(p) In negotiating future cable contracts for providing residents with cable television services the appropriate town committees and the town administration shall attempt to negotiate provisions which shall provide televised council meetings as a public access service.