



Town of Reading Meeting Posting with Agenda

Board - Committee - Commission - Council:

Charter Review Committee

Date: 2024-12-18

Time: 7:00 PM

Building: Reading Town Hall

Location: Select Board Meeting Room

Address: 16 Lowell Street

Agenda:

Purpose: General Business

Meeting Called By: Jacquelyn LaVerde on behalf of Chair Chris Haley

Notices and agendas are to be posted 48 hours in advance of the meetings excluding Saturdays, Sundays and Legal Holidays. Please keep in mind the Town Clerk's hours of operation and make necessary arrangements to be sure your posting is made in an adequate amount of time. A listing of topics that the chair reasonably anticipates will be discussed at the meeting must be on the agenda.

All Meeting Postings must be submitted in typed format; handwritten notices will not be accepted.

Topics of Discussion:

This meeting will be held in-person in the Town Hall Select Board Meeting Room and remotely via Zoom:

Join Zoom Meeting

<https://us06web.zoom.us/j/84658009357>

Meeting ID: 846 5800 9357

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AGENDA:

- Public Comment
- Vote on Vice Chair
- Discuss Result of Town Meeting Instructional Motion
- Review of Proposed Charter Changes with Town Counsel
- Discuss Timeline to Complete the Charter Review Process
- Future Meeting Dates
- Future Agenda Items
- Approval of Minutes

This Agenda has been prepared in advance and represents a listing of topics that the chair reasonably anticipates will be discussed at the meeting. However the agenda does not necessarily include all matters which may be taken up at this meeting.

February 21, 2024

**PRIVILEGED AND CONFIDENTIAL
MEMORANDUM**

TO: Philip B. Pacino, Chair
Reading Municipal Light Board of Commissioners

FROM: John P. Coyle

RE: Revisions Required to Restore Section 3.5 of the Reading Town Charter to Consistency with General Laws Chapter 164

Article 7 of the warrant approved by the Town of Reading's April 28, 2003, Town Meeting revised Section 3.5 of the Reading Town Charter in an effort to address certain issues that had arisen concerning management of the Reading Municipal Light Department ("RMLD"). Certain of those revisions are contrary to the requirement of Sections 2 and 6 of the "Home Rule Amendment" (Article LXXXIX, or Article 89) of the Massachusetts Constitution and section 13 of the Home Rule Procedures Act (G.L. c. 43B § 13). Those provisions require that municipal home rule charter provisions "shall not be inconsistent with the constitution or any laws enacted by the general court in conformity with the powers reserved to the general court by section eight" of Article 89 (*i.e.*, general laws in this context). Specifically, the 2003 revisions to Section 3.5 of the Reading Town Charter are inconsistent with requirements of G.L. c. 164 §§ 56 through 59 concerning the duties and authority of municipal light boards and general managers of municipal lighting plants, such as the RMLD.

There are two related and compelling reasons to restore Section 3.5 of the Reading Town Charter to the constitutionally and statutorily required consistency with the provisions of General Laws chapter 164. First, the inconsistency between certain provisions of Section 3.5 of the Reading Town Charter and the requirements of General Laws chapter 164 could give rise to legal challenges to actions of either the Reading municipal light board or the RMLD's general manager in connection with contracts or other decisions affecting RMLD's service to the public. Second, the current rapid transition in the electric power industry to lower carbon generation resources, increasing reliance on electric transmission, and rapidly changing wholesale power market rules requires that municipal light plants be empowered to respond quickly and with clearly delineated authority to emerging regulatory and commercial imperatives in the industry. The RMLD competes with substantially larger and wealthier utilities at the wholesale level for power supply resources, at the retail level for customers to locate within the

territory it serves, and for skilled, efficient staff and optimally priced supplies and equipment on the operational level. The ability to compete effectively often depends on clear and settled lines of authority, and the ability to respond rapidly to emerging challenges. The 2003 revisions to Section 3.5 of the Reading Town Charter both impede the RMLD's ability to compete and fail to meet the constitutional and statutory requirements of consistency for home rule charter provisions.

This memorandum first explains why the Commonwealth's case law concerning preemption of home rule initiatives like those currently contained in Section 3.5 of the Reading Town Charter reinforces the need to revise those Charter provision to restore consistency with G.L. c. 164. Following that discussion, this memorandum offers specific observations on current inconsistency between Town Charter Section 3.5 and G.L. c. 164, and recommendations for restoring consistency.

I. LIMITATIONS ON HOME RULE AUTHORITY

The 2003 amendments to Section 3.5 of the Reading Town Charter were adopted under the Home Rule Amendment (Article 89) to the Massachusetts Constitution and the Home Rule Procedures Act (G.L. c. 43B). As noted above, both the Home Rule Amendment to the Commonwealth's Constitution (Article 89, §§ 2 and 6) and the Home Rule Procedures Act (G.L. c. 43B, § 13) require that municipal Home Rule charter provisions be "not inconsistent" with generally applicable provisions of the General Laws.

A. Inconsistency and Preemption of Local Legislation

In *Bloom v. City of Worcester*, 363 Mass. 136, 150 (1973), the Supreme Judicial Court construed Section 13 of the Home Rule Procedures Act to mean that "the exercise of municipal legislative authority under § 13 of the Home Rule Procedures Act may not properly involve the exercise of any power or function which is inconsistent with any pre-Home Rule Amendment general law."¹ The Court went on to observe (*id.* at 155) that:

¹ The responsibilities of the municipal lighting plant general manager were established in the terms presently set forth in G.L. c. 164 § 56 in Act No. 370, Acts of 1891, § 8. The duties and authority of the municipal light board were defined in terms presently set forth in G.L. c. 164 § 55 in Act No. 454, Acts of 1893, § 10.

. . . [A] legislative intention to bar local ordinances and by-laws purporting to exercise a power or function on the same subject as State legislation may . . . be inferred in all the circumstances. Legislation which deals with a subject comprehensively, describing (perhaps among other things) what municipalities can and cannot do, may reasonably be inferred as intended to preclude the exercise of any local power or function on the same subject because otherwise the legislative purpose of that statute would be frustrated.

The principle expressed in *Bloom v. Worcester* has been applied repeatedly by the Supreme Judicial Court in invalidating “home rule” adoption of municipal legislation or regulations because of inconsistency with Commonwealth legislation. See, e.g., *St. George Greek Orthodox Cathedral of W. Mass., Inc. v. Fire Dept. of Springfield*, 462 Mass. 120, 127-129 (2012) (invalidating municipal fire protection ordinance due to inconsistency with G.L. c. 143 § 93 in allowing the use of only one of four types of fire suppression systems authorized by Commonwealth’s building and construction code in 780 CMR § 907.14.3); *Town of Dartmouth v. Greater New Bedford Reg’l Voc. Tech. High Sch. Dist.*, 461 Mass. 366, 375-376 (2012) (finding inter-district funding agreement preempted by G.L. c. 70, § 6); *Wendell v. Atty. Gen.*, 394 Mass. 518, 527-529 (1985) (holding local by-law governing pesticide use preempted by Commonwealth’s Pesticide Control Act); *Boston Teachers Union Local 66 v. City of Boston*, 382 Mass. 553, 564 (1981) (“ . . . [A] statute designed to deal uniformly with a Statewide problem displays on its face an intent to supersede local and special laws. . . .”) (internal quotations omitted).

B. G.L. c. 164 Establishes Comprehensive Light Plant Governance

A long and solid line of case law establishes that G.L. c. 164 is a comprehensive statute designed to deal uniformly with statewide issues, and that G.L. c. 164 therefore preempts local legislation at variance with its requirements. In *Boston Gas Co. v. City of Somerville*, 420 Mass. 702, 704 (1995), the Supreme Judicial Court recognized that: “Given the comprehensive nature of this statute [G.L. c. 164], we conclude that the Legislature intended to preempt local entities from enacting legislation in this area.” The same preemption principle has been applied by the Supreme Judicial Court in other decisions invalidating local legislation found inconsistent with the structure and requirements of G.L. c. 164. See *Boston Edison Co. v. City of New Bedford*, 444 Mass. 775, 781 (2005) (G.L. c. 164 is intended to establish uniform statewide regulation of utility service); (*Boston Gas Co. v. City of Newton*, 425 Mass. 697, 700-704 (1995 (holding

municipal ordinances imposing maintenance and inspection fee obligations on excavations in municipal streets preempted by G.L. c. 164); *and see New England Tel. & Tel. Co. v. City of Lowell*, 369 Mass. 831, 834-835 (1976) (local regulation of telephone poles preempted by G.L. c. 112, §§ 81D-81T).

Those provisions of G.L. c. 164 that are specific to municipal lighting plants (G.L. c. 164, §§ 34-69) are regarded by settled Supreme Judicial Court precedent as establishing a regulatory scheme that is different from, but as comprehensive as, that applicable to investor-owned electric and natural gas utilities. The Supreme Judicial Court has recognized that “[t]he special provisions applicable to municipal light boards (see G. L. c. 164, §§ 55-56A) indicate a legislative deference to the fact that their rate schedules are fixed by public officers acting under legislative mandate, and that therefore they do not require the close scrutiny and measure of supervision by the Department which is authorized or required as to nonmunicipal electric companies under § 94.” *Board of Gas & Elec. Commissioners of Middleborough v. Dept. of Pub. Utils.*, 363 Mass. 433, 438 (1973). “This discretion, however, is circumscribed by, among other considerations, the specific rate design restrictions in G. L. c. 164, § 58, the requirement that rates be filed with the department, G. L. c. 164, § 59, and the department’s supervisory power to review such rates as set forth in G. L. c. 164.” *Bertone v. Dept. of Pub. Utils.*, 411 Mass. 536, 548 (1992).

“Municipal light boards have broad power to contract with other parties, see G. L. c. 164, §§ 55-56” (*Hull Mun. Lighting Plant v. MMWEC*, 399 Mass. 640, 646 (1987)), and “having created a light board, the town may not seek to limit that board’s proper authority after the fact,” by attempting to exercise home rule authority. *Canner v. Groton*, 402 Mass. 804, 807-808 (1988). Under the structural regime created for municipal light plants by G.L. c. 164, §§ 34-69, light plants are distinct political and financial entities from the towns in which they provide utility service. *Town of Middleborough v. Middleborough Gas & Elec. Dept.*, 422 Mass. 583, 587-588 (1996). *See also Mun. Light Comm’n of Peabody v. Peabody*, 348 Mass. 264, 273 (1964) (“management and fiscal operation of the municipal light department . . . are vested in the commission and the manager of the plant”).

For these reasons, G.L. c. 164, §§ 34-69 (and more specifically for present purposes §§ 56-59) create a comprehensive system of State regulation of municipal lighting plants. That comprehensive system of regulation necessarily preempts, or renders “inconsistent” with the laws of the Commonwealth, local laws adopted under the Home Rule Amendment and the Home Rule Procedures Act that are at variance with the requirements of G.L. c. 164. In the final section of this memorandum, we outline in table form the provisions of Section 3.5 of the Reading

Town Charter that are inconsistent with G.L. 164 and therefore subject to invalidation if challenged.² In the same table format, we provide recommended modifications to those portions of Section 3.5 of the Reading Town Charter to restore its consistency with G.L. c. 164.

II. INCONSISTENT CHARTER PROVISIONS AND REVISIONS

The following table shows recommended revisions to Section 3.5 of the Reading Town Charter, with current and inconsistent language stricken through and recommended additional language double underlined, and identifies the inconsistency between the current language of Section 3.5 and the requirements of G.L. c. 164.

Paragraph	Language and Revision	Inconsistency
1	There shall be a Municipal Light Board of Commissioners consisting of five (5) members elected for three (3) year terms so arranged that as near an equal number of terms as possible shall expire each year.	None. No changes recommended.
2	The Municipal Light Board of Commissioners shall have <u>hold and exercise</u> all the powers and duties granted to cities and towns in respect to municipal lighting plants by Massachusetts General Laws Chapter 164, Section 34 <i>et seq.</i> and other general and special acts pertaining thereto, together with such further powers and duties <u>as may consistently with the foregoing laws of the Commonwealth of Massachusetts be</u> assigned to them by the Charter, by Town Bylaw, or by Town Meeting vote.	Added language needed to clarify that powers of the Board are vested by G.L. c. 164 § 55 and not by local legislation.

² By letter dated May 8, 2003, the Commonwealth's Attorney General opined without explanation that "there is no conflict between the proposed amendments [in Article 7 of the warrant for the Town's April 28, 2003, Town Meeting] and the laws and constitution of the Commonwealth." For the reasons explained in this memorandum, that opinion – which was rendered under G.L. c. 43B, § 10(c) as a predicate to the effectiveness of the revisions to Charter Section 3.5, and has never been the subject of judicial review – is open to serious challenge.

Paragraph	Language and Revision	Inconsistency
3	The Municipal Light Board of Commissioners shall hire the General Manager of the Municipal Light Department and set his duties and the terms of employment.	General Manager's duties are established by G.L. c. 164, § 56, not by the Board.
4	The Municipal Light Board of Commissioners shall appoint the Accounting Manager or Chief Accountant of the Municipal Light Department and appoint Counsel to the Municipal Light Department.	G.L. c. 164, § 56 vests all engagement authority in the General Manager, not the Light Board.
5	The Accounting Manager or Chief Accountant, as the case may be, and Counsel shall be subject to the supervision of the General Manager.	Redundant in light of G.L. c. 164, § 56 vesting oversight of all light plant staff in the General Manager.
6	The Municipal Light Board of Commissioners shall approve warrants for payments of all bills and payroll of the Municipal Light Department and shall approve all contracts which are at or above the competitive sealed bid procedures level as stated in Massachusetts General Laws Chapter 30B, Section 5 and, further, all contracts shall be made in accordance with Massachusetts General Laws Chapter 30B. Contracts for purchasing of power shall not be subject to Massachusetts General Laws Chapter 30B but shall be approved by the Municipal Light Board of Commissioners.	Under G.L. c. 164, § 55, the Light Board is free to adopt some or all of the contracting processes set forth in G.L. c. 30B, but the Town has no authority to impose those processes.
7	The Municipal Light Board of Commissioners shall employ the Auditor appointed by the Town of Reading Audit Committee.	Retention of outside professionals is committed to the discretion of the General Manager under G.L. c. 164, § 56.
8	The Municipal Light Board of Commissioners shall annually set review	The General Manager and the Light Board jointly set

Paragraph	Language and Revision	Inconsistency
	<p><u>and approve</u> electric rates and <u>review and approve</u> an annual operating budget and Capital Improvements Program <u>capital budget</u> each fiscal <u>calendar</u> year. Such approval will be done by a majority vote of the Municipal Light Board of Commissioners. After the Municipal Light Board of Commissioners has approved an annual operating budget and Capital Improvements Program <u>capital budget</u>, <u>upon request of any of the four Towns served by Reading Municipal Light Department, the General Manager of the Light Department</u> it will present them to the Town of Reading Finance Committee and Town of Reading Town Meeting. Upon request of any of the other towns served by the Municipal Light Department, the Municipal Light Board of Commissioners shall make a presentation to the Finance Committee and/or Town Meeting of any such <u>†Town(s) concerning the budgets so adopted.</u></p>	<p>rates and budgets under G.L. c. 164, §§ 55-56, and §§ 57-58 largely control the methodology of how that is to be done.</p>

CONCLUSION

As always, we appreciate the opportunity to be of service to the Board, and will make ourselves available at your convenience to answer any questions the Commissioners may have concerning the subjects of this memorandum.

October 2, 2024

Town of Reading
Charter Review Committee
16 Lowell Street
Reading, MA 01867

RE: Proposed RMLD Amendments to Charter

Dear Committee Members,

On February 21, 2024, attorney John P. Coyle, from Duncan & Allen, LLP, circulated a memorandum to the Chair of the Reading Municipal Light Board of Commissioners articulating his belief that certain amendments made to Article 3.5 of the Reading Town Charter in 2003 and 2015 are contrary to the requirements of Section 2 and Section 6 of the Home Rule Amendment of the Massachusetts Constitution and Section 13 of the Home Rules Procedure Act, G.L. c. 43B, § 13. Mr. Coyle highlights that Article 3.5 of Charter is inconsistent with G.L. c. 164, §§ 56 through 59 concerning the duties and authority of the municipal light boards and general managers of municipal lighting plants. Mr. Coyle opines that because the Home Rule Amendment and the Home Rule Procedure Act state that charter provisions “shall not be inconsistent with the constitution or any laws enacted by the general court” that Article 3.5 of Reading’s Charter must be amended to avoid any conflict with G.L. c. 164.

Principally, Mr. Coyle objects to the following provisions in the existing Charter:

1. Provision that empowers the Light Board to set the duties of the General Manager: Argues that these duties are set by G.L. c. 164, § 56
2. Provisions that authorize the Light Board to appoint the RMLD counsel and “Accounting Manager or Chief Accountant”: Argues that these duties belong to the General Manager under G.L. c. 164, § 56
3. Provisions that require compliance with Chapter 30B, the Uniform Procurement Act: Argues that the Light Board is free to adopt some or all of the contracting processes under Chapter 30B
4. Provision that requires utilization of the Town’s Auditor: Argues this falls within the discretion of the General Manager under G.L. c. 164, § 56.
5. Provisions empowering the Light Board to set the rate and budget: Argues this is a joint process between the Light Board.

I have considered these objections and offer the following comments.¹

¹ Counsel to the Light Board raised similar concerns in 2003 and 2014. This letter is based on an October 6, 2014, letter that my officer provided to the then Reading Charter Committee, updated as appropriate. Our opinion’s central premises has not altered, however.

I. General Home Rule Authority

The “Home Rule Amendment,” Article 89 of the Massachusetts Constitution, was adopted in 1977. The Amendment reaffirms the “customary and traditional liberties” of the people to conduct their local government, and grants and confirms their “right of self-government in local matters.” This right is not unlimited, however. Specifically, Section 2 of the Amendment provides that “[t]he provisions of any adopted or revised charter or any charter amendment shall not be inconsistent with the constitution, or any laws enacted by the general court...”

Section 20 of the Home Rules Procedures Act, enacted in 1984 to implement the Home Rule Amendment, provides, in relevant part, as follows:

The provisions of any charter or charter amendment adopted pursuant to the provisions of this chapter shall be deemed consistent with the provisions of any law relating to the structure of city and town government, the creation of local offices, the term of office or mode of selection of local offices, and the distribution of powers, duties and responsibilities among local offices.

(Emphasis added). Section 20 identifies certain types of laws that charter provisions are expressly deemed to be consistent with as a matter of law – including, specifically, provisions “that any particular local officer or employee shall be appointed by any particular local officer” and “that the powers, duties and responsibilities of one local office be divided and exercised by two or more local offices.” G.L. c. 43B, §§ 20(b), (f). Section 20 has been interpreted to reflect the new balance of power that the Home Rule Amendment established between the municipalities and the State. *Town Council of Agawam v. Town Manager of Agawam*, 20 Mass. App. Ct. 100, 103 (1985)

In *Agawam*, the Appeals Court held that a charter provision granting to the Town Manager the sole power of appointment of local officials without confirmation was valid despite a general law providing that all such appointments were to be subject to confirmation. 20 Mass. App. Ct. at 743. Because Section 20 expressly provides that the mode of selection of local officials was within the discretion that municipalities may exercise by charter, the Court held that a municipal charter providing for such appointment must be deemed consistent with state law. *Id*; see, also, *O’Connell v. Mayor of Lynn*, 54 Mass. App. Ct. 583, 585 (2002) (noting that *Agawam* “stands for the proposition that a municipal charter may provide for an employee appointment process that does not involve town council approval, and still be deemed consistent” with state law).

Following the *Agawam* decision, the Superior Court, in *Southbridge School Committee v. Southbridge Town Council*, 20 Mass. L. Rptr. 589 (2006), upheld the provisions of another town charter despite a directly contrary state law. In that case, the town had appropriated funds for its School Committee but, after deciding that some of the funds were needed elsewhere, withdrew the funds from the School Committee’s account. The town charter provided authority for the Town Council to do so, but the School Committee argued that contrary state law should control.

The court held that Section 20 of the Home Rules Procedure Act required that the charter provision be treated as consistent with state law, and the Town Council's action was upheld on this basis.

II. Authority to Contract, Appoint, Set Rates, and Adopt Budget

The Light Board's counsel takes the position that the authority to hire employees and execute certain contracts is exclusively vested in the RMLD manager under Chapter 164 of the General Laws and cannot be transferred to the Light Board via a charter provision. The Light Board's counsel further argues that a charter provision is likely to be found inconsistent with state law if the state law in question is "comprehensive legislative" that demonstrates the Legislature's intent to forbid local regulation. In reaching this conclusion, the Light Board's counsel relies upon the holding in *Bloom v. City of Worcester*, 363 Mass. 136 (1973), *Canner v. Town of Groton*, 402 Mass. 804 (1988), and *Boston Gas Co. v. City of Somerville*, 420 Mass. 720 (1995) to support his position that any difference between Chapter 164 and the Town of Reading's Charter results in the invalidation of the Town's Charter provision. This position is not supported by the express language of Section 20 of the Home Rule Procedure Act.

Principally, the Light Board's counsel is mischaracterizing the holding *Bloom*, *Canner*, and *Boston Gas Co.*, all of which dealt with the adoption of a local ordinance or bylaw, as opposed to a charter provision.² I agree that a municipal ordinance or bylaw cannot be inconsistent with state law. However, Section 20 of the Home Rule Amendment clearly sanctions charter provisions that would be invalid if adopted as an ordinance or bylaw. Interestingly, the Light Board's counsel does not address Section 20 at all in his letter.

In *Golubek v. Westfield Gas & Elec. Light Bd.*, 32 Mass. App. Ct. 954, 955 (1992), a disagreement arose between the Light Department Manager and the Light Board regarding the Board's decision to hire a labor relations consultant. The Court held that the Light Board's actions were improper because the authority to hire was statutorily granted to the Light Department Manager under Chapter 164. *Id.* In so holding, the Court rejected the Board's argument that it was entitled to hire the consultant because of a provision of the Westfield City Charter that required all Board contracts over \$500 to be approved by the Board and the Mayor. *Id.* Without discussion, the court held that this charter provision did not alter the manager's statutory hiring power. *Id.* Put simply, the Court held that while a charter provision could alter the manager's statutory hiring power, the particular Charter provision at issue had not done so.

It should also be noted that the provisions to which the Light Board's counsel is objecting were added to the Charter in 2003 and 2015 and, pursuant to the procedures for charter amendment, were submitted to the Attorney General's Office for review. The Attorney General's Office concluded at that time that there was "no conflict between the proposed amendment and

² The Light Board's counsel also cites to *St. George Greek Orthodox Cathedral of W. Mass, Inc. v. Fire Dept. of Springfield*, 462 Mass. 120, 127-129 (2012), *Town of Dartmouth v. Greater New Bedford Reg'l Voc Tech High Sch. Dist.*, 461 Mass. 366, 375 (2012), *Wendell v. Atty. Gen.* 394 Mass. 518, 527 (1985), and *Boston Teachers Union Local 66 v. City of Boston*, 382 Mass. 553, 564 (1981). All of these cases, like *Bloom*, involve the enactment of an ordinance or bylaw. None of these cases address the ability of a Town or City to adopt a Charter provision that may diverge from state law, but which sets forth the division of powers among local officers.

the laws and constitution of the Commonwealth.” I see no reason to dispute the Attorney General’s conclusion.

III. Procurement in Accordance with 30B

Light Counsel highlights that, pursuant to G.L. c. 164, municipal light boards are permitted to adopt all or some of the requirements of Chapter 30B’s procurement requirements. As described above, Section 20 of the Home Rules Procedure Act permits the Town to empower the Light Board with contracting authority. However, Light Board’s counsel opines that Section 20 does not address the ability of the Town to impose Chapter 30B’s procurement obligations on the Light Board because this matter does not deal with the distribution of powers amongst officials.

Assuming that to be the case, even when preemption of a local ordinance or bylaw (not a charter provision) is claimed, the Supreme Judicial Court has said that “[t]he legislative intent to preclude local action must be clear.” *Bloom*, 363 Mass. at 155. To be sure, “[i]n some instances, legislation on a subject is so comprehensive that an inference would be justified that the Legislature intended to preempt the field.” *Town of Wendell v. Attorney General*, 394 Mass. 518, 524 (1985). “If, however, the State legislative purpose can be achieved in the face of a local by-law on the same subject, the local by-law is not inconsistent with State legislation, unless that legislation explicitly forbids the adoption of such a by-law.” *Id.* Thus, “[i]t is not the comprehensiveness of legislation alone that makes local regulation inconsistent with a statute. [citation omitted] The question ... is whether the local enactment will clearly frustrate a statutory purpose.” *Id.* at 527-28.

Here, the Light Board’s counsel has argued that Chapter 164³ is comprehensive legislation that would be frustrated by the Charter’s provision in question. However, it is difficult to identify any purpose underlying Chapter 164 that would be frustrated by an exempt entity’s utilizing its procedures to ensure good procurement and disposal practices. Where the Attorney General has already concluded that there was no conflict between Reading’s Charter and the laws of the Commonwealth, I see no reason to disagree based on the letter from the Light Board’s counsel.

IV. Deadline for the Approval of Budgets and Adoption of Rates

The current Charter requires the Light Board to approve electric rates and its annual operating budget and capital improvement program each fiscal year.⁴ Light Board’s counsel wishes to change the approval timeline to each “calendar year.” The Light Board’s counsel points to G.L. c. 164, §§ 55-58 for support of this change. *But, see*, G.L. c. 164, § 57 (“At the beginning of each fiscal year, the manager of municipal lighting shall furnish to the mayor,

³ In 2014, Light Board’s counsel argued that Chapter 30B precluded the Charter from imposing Chapter 30B’s requirements on the Light Board. Our firm’s letter disputed this contention and the Light Board’s counsel does not seem to be making that argument here, instead relying on Chapter 164’s expansiveness to contest the adoption of the Charter provision.

⁴ Fiscal year is defined as follows: “The fiscal year of the Town shall begin on July first (1st) and end on June thirtieth (30th), unless another provision is made by the Massachusetts General Laws.” Reading Charter Article 7.1.

selectmen or municipal light board, if any, an estimate of the income from sales of gas and electricity to private consumers during the ensuing fiscal year...”). While I recognize that the Department of Public Utilities requires reports to be submitted on a calendar year, Light Counsel does not explain why the Light Board believes switching to a calendar year budget and rate setting process is legally required. I would be open to exploring this issue further but given that the Attorney General has approved the Town’s Charter provision requiring fiscal year submission, I would be hesitant to disturb the Town’s Charter provision absent further explanation from the Light Board’s counsel.

V. Conclusion

For the reasons articulated above, I am comfortable that the challenged Charter provisions are consistent with State law and see no reason to dispute the findings of the Attorney General. However, the Town can certainly amend its Charter as requested by the Light Board. This is a policy, not a legal, decision for the Town to make.

Sincerely,



Ivria Glass Fried

October 15, 2024

VIA ELECTRONIC MAIL

Phillip B. Pacino, Vice Chair
Reading Municipal Light Board of Commissioners
230 Ash Street
Reading, Massachusetts 02187-0250
E-mail: philpacino@grmp.net

Re: Recommended Revisions to Reading Town Charter,
Section 3.5 and Limited Response to October 2, 2024
Letter from Counsel to Charter Review Committee

Dear Mr. Pacino:

You have requested a brief response to the October 2, 2024, letter from counsel to the Reading Charter Review Committee responding to my memorandum to you of February 21, 2024. That memorandum concluded that the 2003 revisions to Section 3.5 of the Reading Town Charter (1) impede the RMLD's ability to compete at the wholesale level for power supply resources, at the retail level for customers to locate within the territory it serves, and at the operational level, and (2) fail to meet the constitutional and statutory requirements of consistency for home rule charter provisions. The memorandum outlined targeted changes to the language of paragraphs 2 through 8 of Section 3.5 of the Town Charter to comply with G.L. c. 164.

Summarizing the following analysis, no judicial precedent holds that the "home rule" statute (G.L. c. 43B, Section 20) allows town charter provisions to take precedence over State law that establishes a detailed and strict Statewide plan of supervision and control reflecting the Commonwealth's supervening interest in the uniform regulation of municipal activities. General Laws chapter 164, Sections 55 through 58, establish a detailed and strict Statewide plan of supervision of municipal light plant governance and contracting authority. The deviations from that Statewide plan of supervision contained in the current version of Section 3.5 of the Reading Town Charter should be corrected as recommended in my February 21 memorandum.

ANALYSIS

Charter Review counsel's October 2 letter is helpful in narrowing the actual areas of divergence between her views and mine, and putting a clear focus on the decisions confronting the Charter Review Committee. Charter Review counsel and I agree that the provisions of Section 3.5 of the Reading Town Charter would be voidable had an ordinance or by-law adopted those provisions, because of their inconsistency with specific requirements of G.L. c. 164 – the General Laws chapter addressing, among other subjects, municipal light plant governance.

Where we specifically part company concerns whether or not G.L. c. 43B Section 20 – which provides that certain types of charter provisions “shall be deemed consistent with the provisions of any law relating to the structure of city and town government, the creation of local offices, the term of office or mode of selection of local offices, and the distribution of powers, duties and responsibilities among local offices” – overcomes the inconsistency between the referenced provisions of Reading Town Charter Section 3.5 and the provisions of G.L. c. 164 Sections 55 through 58 relating to light plant contracting, governance, and management. Charter Review Committee counsel is confident that G.L. c. 43B Section 20's “deemed consistent” provision overcomes the inconsistencies with G.L. c. 164 discussed in my February 21 memorandum. I do not share that confidence.

There is no decision of the Massachusetts Supreme Judicial Court that addresses whether G.L. c. 43B Section 20's “deemed consistent” language authorizes the Reading Town Charter deviations from the municipal light plant governance provisions of G.L. c. 164 Sections 55 through 58 discussed in my February 21 memorandum. There are two decisions of the Court of Appeals, the Commonwealth's intermediate appellate court, that touch on this question. I believe that *Golubek v. Westfield Gas & Electric Light Board*, 32 Mass. App. Ct. 954, 956, 591 N.E.2d 682 (Mass. App. Ct. 1992), which specifically holds that a “charter provision cannot alter the statutory power of the manager to hire employees and attorneys” under G.L. c. 164 Section 56, is a better view of the law.

Charter Review Committee counsel argues in her October 2 letter (at page 2) that *Town Council of Agawam v. Town Manager of Agawam*, 20 Mass. App. Ct. 100, 103, 478 N.E.2d 739 (Mass. App. Ct. 1985) held that the Agawam Town Manager's charter authority to appoint a Town assessor without Town Council confirmation was valid “[s]ince the Agawam charter was effectively

adopted pursuant to G. L. c. 43B, as amended, its provision for appointment of local officials by the town manager without confirmation by the town council must be deemed consistent with G. L. c. 39, § 1, a law adopted in its present form more than sixty years ago when the concept of home rule was unknown” (*id.*). The Court of Appeals’ decision in *Town Council of Agawam* is specifically limited to circumstances that distinguish it from the Reading Town Charter Section 3.5 provisions discussed in my February 21 memorandum. Footnote 9 to the Court of Appeals’ decision in *Town Council of Agawam* distinguishes and declines to address the Supreme Judicial Court’s decision in *Young v. Mayor of Brockton*, 346 Mass. 123, 124-125 (1963), reaching a contrary result in a dispute over the appointment of a member of the Brockton liquor licensing board. The Court of Appeals in *Town Council of Agawam*, 20 Mass. Ct. App. at 105 n. 9, specifically observed that the Supreme Judicial Court’s decision in *Young v. Mayor of Brockton* (internal citations omitted):

. . . was based on the special characteristics of liquor licensing boards which were established in the wake of the repeal of prohibition and which operate under a detailed and strict Statewide plan of supervision and control reflecting the Commonwealth’s supervening interest in the uniform regulation of the sale and distribution of alcoholic beverages. . . . While the Commonwealth has expressed an interest in the work of town assessors, . . . it has not established a Statewide plan for their supervision at all comparable to that mandated for alcoholic liquors. * * * Accordingly, the different circumstances confronting the Supreme Judicial Court in the *Young* case have no application in this case. We expressly make no determination, however, of the effect of [G.L. c. 43B Section 20], on the sort of appointment discussed in the *Young* case.

With the utmost respect for Charter Review Committee counsel’s scholarship, it is central to our different views on the Reading Town Charter provisions under discussion that, in contrast to the situation at issue in *Town Council of Agawam*, G.L. c. 164 Sections 55 through 58 actually do involve “a detailed and strict Statewide plan of supervision and control reflecting the Commonwealth’s supervening interest in the uniform regulation of the sale and distribution” of utility service by the Commonwealth’s municipal light plants. The requirements of the “detailed and strict Statewide plan of supervision and control reflecting the Commonwealth’s supervening interest” in the governance of municipal light plants under G.L. c. 164 are discussed at length in my February 21 memorandum and summarized in the Supreme

Judicial Court's decision in *Town of Middleborough v. Middleborough Gas & Electric Department*, 422 Mass. 583, 585-588 (1996) (noting, among other things, that "MG&ED is distinct from the town in another, practical sense particularly relevant to this controversy. The town's revenues come from its citizens, whereas MG&ED's revenues come from its ratepayers, in both Middleborough and the town of Lakeville"). For this reason, by the explicit terms of the Court of Appeals' own decision in that case, *Town Council of Agawam* provides little, if any, useful guidance for the decisions confronting the Charter Review Committee in connection with conforming Reading Town Charter Section 3.5 to the statutory requirements of G.L. c. 164 Sections 55 through 58 relating to municipal light plant governance.

Charter Review Committee counsel notes at page 3 of her October 2 letter that "[i]nterestingly, the Light Board's counsel does not address Section 20 at all" in my February 21 memorandum. It was not necessary to "address Section 20" in that earlier memorandum because the "deemed consistent" language of G.L. c. 43B, Section 20 cannot override the express reservation of authority to the General Court under Sections 2 and 6 of Article 89 of the Commonwealth's Constitution – a point recognized in substance in footnote 9 of the *Town Council of Agawam* Court of Appeals decision on which Charter Review Committee counsel places principal reliance.

Thank you for the opportunity to provide this response. If you believe that it might assist the Charter Review Committee in its deliberations, I would be happy to make myself available to respond to any questions at the Committee's next scheduled meeting on October 23.

Very truly yours,

John P. Coyle

John P. Coyle

Digitally signed by John P.
Coyle
Date: 2024.10.15 11:40:24
-04'00'

Proposed Revisions To Reading Town Charter Article 8.12
Following Town Counsel Suggested Edits
Jonathan Barnes
10/23/24

As revised, the full provisions of Article 8.12 read as follows:

8.12 Removal of an Appointed Board or Committee Member

8.12.1 Removal Process

The appointing authority of any board or committee may remove (1) an appointed member of such board or committee with more than six (6) months remaining in the term for which they were appointed; or (2) an appointed member of such board or committee who is serving with no specified term length. For purposes of Article 8.12, the term appointing authority shall include the board or commission, Town Officer, or employee, including those employees serving without compensation and subject to Massachusetts General Laws Chapter 268A, who exercises appointment power pursuant to law or otherwise obtained through delegation.

The process for such removal may be initiated in any of three methods:

- a. The appointing authority may, by majority vote, cause a notice of removal to be filed with the Town Clerk. The notice shall be in writing and shall specify the grounds for such removal request;
- b. A board or committee may, by majority vote, submit a written request that the appointing authority remove one of its members, specifying the grounds for such removal request in writing and causing a notice of removal to be filed with the Town Clerk;
- c. One hundred (100) or more voters may file with the Town Clerk a petition requesting the removal of a member of a board or committee, specifying the grounds for such removal. Upon certification by the Board of Registrars of Voters of a sufficient number of valid signatures, the Town Clerk shall immediately notify the appointing authority thereof.

A copy of the notice, request, or petition shall be delivered by the Town Clerk to the board or committee member forthwith. Delivery shall be by mail, postage prepaid, to their last known address.

Commented [IF1]: This section is missing a title. Do you want to include one?

Deleted: or any municipal official (*presuming includes volunteers serving*) or board or commission who exercises appointment or removal power pursuant to law, delegated authority, or unilaterally assumed (collectively, in Article 8.12 referenced as the "appointing authority"), ...

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Commented [IF2]: Right now there is no notice if the petition is certified. Are you okay with that?

Deleted: (*"forthwith" is same as used with the Town Manager removal language; though I could live with "within 3 days of receipt by the Town Clerk"*)

8.12.2 Public Hearing

A public hearing shall be convened by the appointing authority not less than twenty (20) nor more than thirty (30) days after a notice, request or valid petition for removal is filed with Town Clerk. Not less than ten (10) days prior to such hearing, written notice thereof shall be given by the Town Clerk to the board or committee member whose removal is sought, by mail, postage prepaid, to their last known address. Not less than forty-eight (48) hours prior to the time set for the commencement of the public hearing, the board or committee member shall be entitled to file a written statement with the appointing authority responding to the reasons cited for the proposed removal. The board or committee member may be represented by counsel at the public hearing, and shall be entitled to present evidence, call witnesses and, personally or through counsel, question any witnesses appearing at the hearing.

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Deleted: (see Section 8.5)

8.12.3 Removal

The appointing authority may, by majority vote, adopt a final resolution of removal, which shall be effective upon adoption. Failure to adopt a final resolution of removal within thirty (30) days of the close of the public hearing shall be deemed to be a disapproval of such resolution. The action of the appointing authority in removing the board or committee member shall be final, it being the intention of this provision to vest all authority and fix all responsibility for such removal in the appointing authority. The board or committee member shall continue to serve on the board or committee until a final resolution of removal has become effective.

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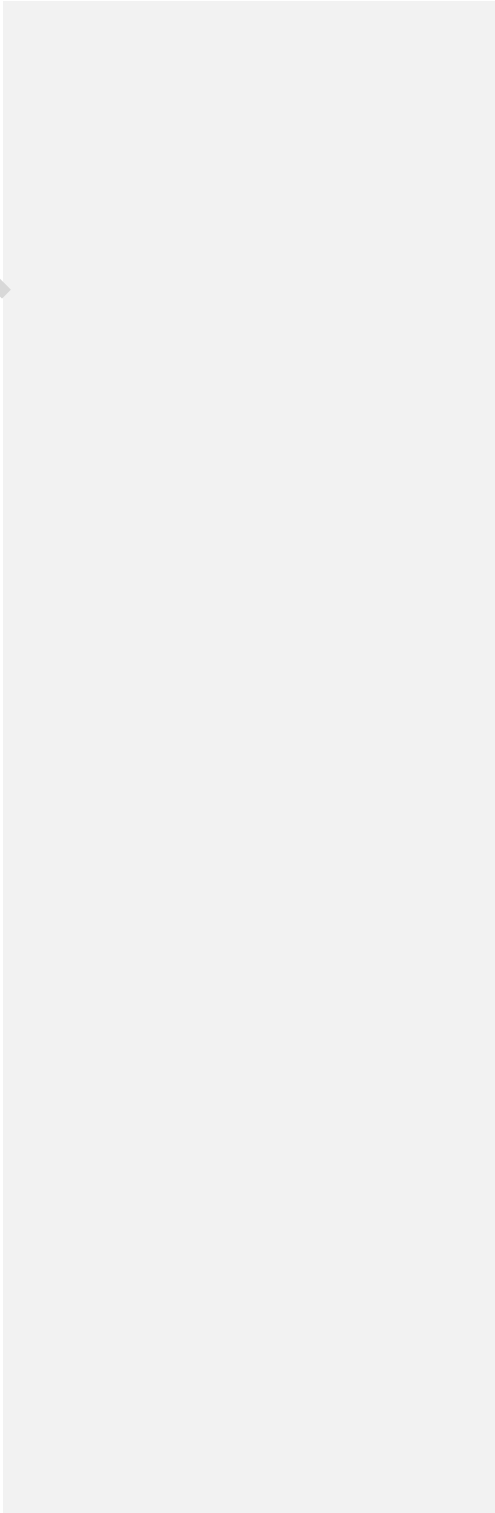
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Town of Reading Massachusetts

Home Rule Charter

Draft - Not Approved



ARTICLE 6 ADMINISTRATIVE ORGANIZATION

- 6.1 Organization of Town Agencies
- 6.2 Town Counsel.....
- 6.3 Town Accountant
- 6.4 Town Treasurer
- 6.5 Town Collector.....
- 6.6 Town Clerk

ARTICLE 7 BUDGET AND CAPITAL IMPROVEMENTS PROGRAM

- 7.1 Fiscal Year
- 7.2 Submission of Proposed Budget
- 7.3 School Committee Budget
- 7.4 Budget Message
- 7.5 The Proposed Budget.....
- 7.6 Action on the Budget.....
- 7.7 Capital Improvements Program.....

ARTICLE 8 GENERAL PROVISIONS

- 8.1 Charter Changes.....
- 8.2 Severability.....
- 8.3 Specific Provisions Prevail
- 8.4 References to Massachusetts General Laws.....
- 8.5 Computation of Time.....
- 8.6 Number and Gender
- 8.7 Rules and Regulations
- 8.8 Procedures of Boards or Committees
- 8.9 Elections.....
- 8.10 Vacancies on Boards or Committees
- 8.11 Recall Procedures.....
- 8.12 Removal of an Appointed Board or Committee Member.....
- 8.13 Resignation of Town Officers.....
- 8.14 Town Seal.....

[Major Revisions of the Charter were conducted in 2015 - January 5, 2015 - Articles 7 and 8 approved by vote of the Town on April 7, 2015]

Draft - Not Approved

Preamble

We, the people of The Town of Reading, in order to re-establish our individual sovereignty with respect to the conduct of our local government and to take the fullest advantages inherent in the Home Rule Amendment to the Constitution of the Commonwealth of Massachusetts, do hereby adopt the following Home Rule Charter for the Town of Reading.

Draft - Not Approved

ARTICLE 1 EXISTENCE, AUTHORITY AND DEFINITIONS**1.1 Incorporation**

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

1.2 Division of Powers

Authority for the management of all the fiscal, prudential and municipal affairs of the Town shall be vested in an executive branch headed by a ~~Board of Selectmen~~ Select Board and administered by a Town Manager. A representative Town Meeting shall exercise all legislative powers of the Town.

1.3 Powers of the Town – Intent of the Voters

It is the intent and the purpose of the voters of the Town of Reading, through the adoption of the Charter, to secure for the Town all of the powers possible to secure under the Constitution and statutes of the Commonwealth of Massachusetts, as fully and as completely as though each such power were specifically and individually enumerated herein.

1.4 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 set forth in Section 1.3.

1.5 Intergovernmental Relations

The Town, acting by and through its ~~Board of Selectmen~~ Select Board, 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.

1.6 Definitions

Unless another meaning is clearly apparent from the manner in which the term is used, the following terms used in the Charter shall have the following meanings:

Board or Committee – The term "board or committee" shall mean any board, committee, commission, authority, or council of the Town, however created, elected, appointed or otherwise constituted.

Charter – The term "Charter" shall mean the Town of Reading Home Rule Charter.

Ex officio – The term "*ex officio*" shall refer to ~~a~~ members of any board or committee who ~~serves~~ by virtue of ~~his~~ their office or position. A person serving as an *ex officio* member on more than one board or committee shall not be required to take an additional oath of office to serve in such capacity.

Library – The term "Library" shall mean the Reading Public Library and any branch or branches thereof that may be established.

Local News Medium – The term "local news medium" shall mean a newspaper, the official town website or other means or channel of information communication to which the general public has access within the Town.

Majority Vote – ~~As applied to the Town Meeting, Committees thereof and precinct meetings,~~ Ithe term "majority vote" shall mean the affirmative vote of a majority of those present and voting provided that a quorum of the body is present. ~~As applied to~~

~~all other boards or committees, the term shall mean the affirmative vote of a majority of the number of members specified in the Charter, Town Bylaw or other enabling vote or action creating such board or committee.~~

Precinct – The term "precinct" shall mean the areas into which the Town is divided for the purpose of electing Town Meeting Members.

Town - The term "Town" shall mean the Town of Reading.

Town Agency - The term "Town Agency" shall mean any board or committee, department or office of the Town, however created, elected, appointed or otherwise constituted.

Town Meeting - The term "Town Meeting" shall mean the representative Town Meeting of the Town, established by Article 2.

Town Officer - The term "Town Officer" shall mean an elected or appointed official of the Town who, in the performance of ~~his~~the duties of ~~their~~f-office, exercises some portion of the sovereign power of the Town, whether great or small; provided, however, that the term shall not include a Town Meeting Member; and provided further that a person may be a Town Officer whether or not ~~he~~that person receives any compensation for ~~his~~their services.

Voters - The term "Voters" shall mean the registered voters of the Town.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]
[Article 1 - Amended January 5, 2015 - Articles 7 and 8 approved by vote of the Town on April 7, 2015]

ARTICLE 2 REPRESENTATIVE TOWN MEETING

2.1 Composition

The legislative body of the Town shall be a representative Town Meeting consisting of one hundred ninety-two (192) members from eight (8) precincts who shall be elected by the voters in each precinct.

Each precinct shall be equally represented in Town Meetings by members elected so that the term of office of one-third of the members shall expire each year.

2.2 Revision of Precincts

When required by law or every ten (10) years, the ~~Board of Selectmen~~ Select Board shall review and, if necessary, re-divide the territory of the Town into eight (8) plainly designated precincts. The precincts shall be divided into as nearly an equal number of inhabitants as possible. The territory of each precinct shall be contiguous and as compact as possible. The territory of each precinct shall be defined, where reasonably possible, by the centerline of known streets or other well-defined limits.

Within ten (10) days of completing its review, the ~~Board of Selectmen~~ Select Board shall file a report with the Town Clerk and the Board of Registrars of Voters, showing any revisions to the precincts that are being made pursuant to this section. If revisions are being made, the report shall include a map showing the boundaries of each precinct and a list of its inhabitants' names and addresses. The ~~Board of Selectmen~~ Select Board shall also post the map and list in the Town Hall and in at least one public place in each precinct.

Any such precinct revision shall be effective on the date it is filed with the Town Clerk. The Town Clerk shall forthwith notify the Secretary of State of the revision in writing.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

2.3 Town Meeting Membership

At the first Town wide election after any precincts are revised, the voters of each precinct shall elect twenty-four (24) Town Meeting Members to represent the precinct. Terms of office shall be determined by the number of votes received. The eight (8) candidates receiving the highest number of votes shall serve for three (3) years, the eight (8) receiving the next highest number of votes shall serve for two (2) years, and the eight (8) candidates receiving the next highest number of votes shall serve for one (1) year from the day of election. Upon the certification of such election, the term of office of all previously elected Town Meeting members shall cease.

At each Annual Election thereafter, the voters in each precinct shall elect eight (8) Town Meeting Members to represent the precinct for a term of three (3) years, and shall also elect Town Meeting Members to fill any vacant unexpired terms. After each election of Town Meeting Members, the Town Clerk shall notify each Town Meeting Member of ~~his~~ their election in writing.

In the event of a tie vote, resulting in a failure to elect the full number of Town Meeting Members in any precinct, the vacancy created thereby shall be filled until the next Annual Town Election by a vote of the remaining Town Meeting Members of the precinct, provided, however, that the balance of any unexpired term shall be filled at the next Annual Town Election. In the event of such a vacancy, the Town Clerk shall give written notice of the tie vote and the vacancy created thereby, to the remaining Town Meeting Members of that precinct and shall publish such notice in the local news medium. Such

notice shall provide at least seven (7) day's advance notification of the time and place for a precinct meeting for the purpose of filling the vacancy.

[Special Legislation adopted as Chapter 57 of the Acts of 2002 on March 14, 2002]
[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

2.4 Town Meeting Sessions

All representative Town Meeting sessions shall be limited to the Town Meeting Members elected pursuant to Section 2.3, together with the duly elected Moderator. The Town Clerk shall notify the Town Meeting Members of the time and place at which representative Town Meeting sessions are to be held, the notices to be sent at least seven (7) days (see Section 8.5) before the meeting. The Town Meeting Members shall be the judges of the election and qualification of their members. A majority of the Town Meeting Members shall constitute a quorum for doing business. However, a smaller number may organize temporarily and may adjourn from time to time, but no Town Meeting shall adjourn over the date of an election of Town Meeting Members. All Town Meeting sessions shall be public.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

2.5 Nomination Procedures

Nomination of candidates for Town Meeting Member shall be made by nomination papers bearing no political designation and signed by not fewer than ten (10) voters from the candidate's precinct. Nomination papers shall be obtained in person and signed by the candidate in the presence of the Town Clerk or designee. Completed nomination papers shall be filed with the Town Clerk at least thirty-five days (35) days before the election.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

2.6 Vacancies

A Town Meeting Member may resign by filing a written notice with the Town Clerk. A Town Meeting Member who terminates residency in the Town shall cease to be a Town Meeting Member. A Town Meeting Member who moves ~~his~~their residence from the precinct from which ~~he~~they were elected to another precinct shall serve only until the next Annual Town Election.

If any person elected as a Town Meeting Member fails to attend one-half or more of the total Town Meeting sessions within one year preceding the most recent Annual Town Election, ~~his~~their seat may be declared vacant by a majority vote of the Town Meeting, after providing the member an opportunity to be heard.

The ~~Board of Selectmen~~Select Board shall place an Article on the Annual Town Meeting Warrant to remove any such Town Meeting Member from office. At least seven (7) days prior to the Annual Town Meeting, the Town Clerk shall notify any such Town Meeting Member that ~~he~~they may be removed from office, provided, however, that such notice shall be deemed adequate if mailed postage prepaid to the Town Meeting Member's last known address.

Any vacancy in a Town Meeting position may be filled until the next Annual Town Election by a vote of the remaining Town Meeting Members of the precinct, provided, however, that the balance of any unexpired term shall be filled at the next Annual Town Election. In the event of a vacancy, the Town Clerk shall give written notice thereof to the remaining Town Meeting Members of the precinct and shall publish such notice in a local news medium. Such notice shall provide at least seven (7) day's advance notification of the time and place for a precinct meeting for the purpose of temporarily filling the vacancy.

[Amended by Chapter 57 of the Acts of 2002]

2.7 Precinct Meetings

The Town Meeting Members of each precinct shall meet at least annually and shall elect a Chair and a Clerk. A majority of the Town Meeting Members of the precinct serving at the time of the precinct meeting shall constitute a quorum thereof. A majority vote cast at a precinct meeting shall be sufficient to fill vacancies, elect a Chair or Clerk, or conduct other business. The Chair or Clerk shall certify any vote taken at a precinct meeting to the Town Clerk.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

2.8 Compensation

Town Meeting Members shall serve without compensation.

2.9 Presiding Officer

A Moderator, chosen in accordance with the provisions of Section 3.6, shall preside at all sessions of the Town Meeting. The Moderator shall regulate the proceedings of all Town Meeting sessions, decide all questions of order and make public declaration of all votes. ~~He~~The Moderator may also administer the oath of office to any Town Officer and to Town Meeting Members. In the absence of the Moderator, the Town Meeting shall elect a Moderator *pro tempore*.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

2.10 Clerk of the Town Meeting

The Town Clerk shall serve as the Clerk of the Town Meeting. In the event of ~~his~~their unavoidable absence, the Town Clerk may designate a substitute; otherwise, the Moderator shall appoint a Clerk *pro tempore*. The Clerk shall give notice of all Town Meetings to Town Meeting Members and to the public and keep the journal of Town Meeting proceedings.

2.11 Participation by Non-Town Meeting Members

Subject to conditions that may be determined from time to time by Town Meeting Members, any person who is not a Town Meeting Member may be allowed to speak at any Town Meeting but shall not vote.

At the request of the Moderator or Town Meeting, any Town Officer or Department Head or ~~his~~their designee shall be present at any session of Town Meeting for the purpose of responding to questions of Town Meeting Members.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

2.12 Establishment of Standing Committees

The Town Meeting may establish boards or committees to which may be referred Warrant Articles for study, review and report in advance of the sessions of the Town Meeting. All meetings of such boards or committees shall be conducted in accordance with the provisions of the Open Meeting Law, Massachusetts General Laws Chapter 30A, Sections 20 through 22, inclusive.

In establishing such boards or committees, the Town Meeting shall provide for the appointment of members either by an appointment committee established for that purpose or by an existing board or committee.

[Amended November 19, 2001 - Article 12]

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

2.12.1 Finance Committee

There shall be a Finance Committee consisting of nine (9) voters of the Town, appointed for three-year staggered terms so arranged that three (3) terms expire on June 30 each year. No Finance Committee Member shall serve for more than three (3) consecutive terms; provided, however, that an appointment to the Finance Committee to fill an unexpired term that has less than two (2) years remaining shall not be counted toward the three (3) consecutive terms.

No Finance Committee Member shall be an elected or appointed Town Officer or an employee of the Town. A Finance Committee Member may be an elected Town Meeting Member but shall serve on no other standing committee.

Finance Committee members shall be appointed by majority vote of an Appointment Committee chaired by the Moderator and consisting of the Moderator, the ~~Chairman~~ of the ~~Board of Selectmen, Select Board~~, and the ~~Chairman~~ of the Finance Committee. The Appointment Committee shall fill any vacancy on the Finance Committee.

The Finance Committee shall have all the powers and duties granted to Finance Committees by the laws of the Commonwealth of Massachusetts, Town Bylaw, any Town Meeting vote and other applicable laws. In addition to these powers, the Finance Committee shall have the power to investigate the books, accounts, records and management of any office, board or committee in Town, and may use agents in carrying out such investigations. The Finance Committee shall submit a written report to the Town Meeting setting forth its findings, approvals or disapprovals on all Articles in the Warrant that involve the expenditure of funds. The Finance Committee shall take reasonable action to submit its report at least seven (7) days (see Section 8.5) before Town Meeting; provided, however, that such report shall not preclude further action or reconsideration by the Finance Committee.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

2.12.2 Bylaw Committee

There shall be a Bylaw Committee consisting of five (5) voters of the Town, appointed for three (3) year staggered terms expiring on June 30.

Bylaw Committee members shall be appointed by majority vote of an Appointment Committee chaired by the Moderator and consisting of the Moderator, the Chair of the ~~Board of Selectmen, Select Board~~, and the Chair of the Bylaw Committee. The Appointment Committee shall fill any vacancy on the Bylaw Committee.

The Bylaw Committee may propose and shall consider Town Meeting Warrant articles offering changes in the Charter, General Bylaws, petitions for special acts, or local acceptance of State Statutes that are subject to Town Meeting acceptance; and may consider Zoning Bylaw changes and shall submit a written report to the Town Meeting setting forth its findings on all such Articles in the Warrant. The Bylaw Committee shall take reasonable action to submit its report to the Town Meeting at least seven (7) days (see Section 8.5) before Town Meeting; provided, however, that such report shall not preclude further action or reconsideration by the Bylaw Committee.

Within one (1) year of any adopted change to the Charter, the Bylaw Committee shall propose any revisions to the General Bylaws that it deems to be necessary as a result of such change.

The Bylaw Committee shall review the General Bylaws at least every ten (10) years and submit a written report to the Town Meeting setting forth any recommended changes.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

2.12.3 Rules Committee

There shall be a Rules Committee, chaired by the Moderator who shall be a non-voting member, and consisting of the Precinct Chairs. The Rules Committee may, from time to time, review all aspects of the operation of Town Meeting and submit a written report to the Town Meeting setting forth its findings, recommendations and proposals for rules governing the conduct of Town Meeting.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

2.13 Warrant Articles

Except for procedural matters, all subjects to be acted upon by the Town Meeting shall be placed on a Warrant therefor issued by the ~~Board of Selectmen~~ Select Board. The ~~Board of Selectmen~~ Select Board shall place on such Warrants all subjects submitted by:

- a Any two (2) or more members of the ~~Board of Selectmen~~ Select Board;
- b Any board or committee;
- c Any ten (10) or more voters for the Annual, Subsequent or Special Town Meeting as defined in Section 2.14; or
- d Any other person or entity as may be authorized by Town Bylaw or otherwise.

All subjects timely submitted to the ~~Board of Selectmen~~ Select Board pursuant to this section shall be placed on a Warrant for the next scheduled Annual, Subsequent or Special Town Meeting.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

All Articles submitted pursuant to Section 2.13(a) shall include the names of all ~~of the Selectmen~~ Select Board members sponsoring such article. Sponsorship of Articles submitted pursuant to Section 2.13(b) shall be designated as: "The ~~Board of Selectmen~~ Select Board as ~~a courtesy to requested by~~ (insert name of Board or Committee requesting the Article)."

Promptly upon receipt by the ~~Board of Selectmen~~ Select Board of any subject for a Town Meeting Warrant Article, a copy of the Article shall be made available for inspection in the Office of the Town Clerk.

2.14 Meetings

The Town Meeting shall meet at least twice in each calendar year. The Annual Town Meeting shall be held during the first six (6) calendar months of the year at a time fixed by Town Bylaw, and shall be primarily concerned with the determination of matters that have a fiscal impact on the Town, including the adoption of an annual operating budget for all Town Agencies other than the Reading Municipal Light Department. A Subsequent Town Meeting shall be held during the last three (3) calendar months of the year at a time fixed by Town Bylaw. In addition to the two (2) meetings required by this section, the ~~Board of Selectmen~~ Select Board may call a Special Town Meeting into session at other times by the issuance of a Warrant therefore as it deems necessary or appropriate for the purpose of acting upon the legislative business of the Town in an orderly and

expeditious manner. The ~~Board of Selectmen~~ Select Board shall call a Special Town Meeting upon the receipt of a petition with two hundred (200) or more signatures of voters, as certified by the Board of Registrars of Voters.

2.15 Referendum Procedures

No final affirmative vote of a Town Meeting on any Warrant Article shall be effective until after the expiration of seven (7) days (see Section 8.5) following the dissolution of the Town Meeting except:

- a** Votes appropriating money for the payment of notes or bonds of the Town and interest becoming due within the then current fiscal year;
- b** Votes for the temporary borrowing of money in anticipation of revenue; or
- c** A vote declared by a preamble, and adopted by a two-thirds (2/3) vote of the Town Meeting to be an emergency measure necessary for the immediate preservation of the peace, health, safety or convenience of the Town.

If a referendum petition is not filed pursuant to Section 2.15.1 within the said seven (7) days (see Section 8.5), the remaining votes of the Town Meeting shall then become effective.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

2.15.1 Referendum Petition

If, within said seven (7) days (see Section 8.5), a referendum petition signed by not fewer than three percent (3%) of the voters, as certified by the Board of Registrars of Voters, containing their names and addresses, is filed with the ~~Board of Selectmen~~ Select Board requesting that any of the remaining affirmative votes of the Town Meeting be submitted to the voters in the form of a ballot question, then the effectiveness of such Town Meeting vote shall be further suspended pending its determination as provided herein. The ~~Board of Selectmen~~ Select Board shall, within ten (10) days after the filing of such referendum petition, call a Special Election, to be held within thirty (30) days or such longer period as may be required by law after issuing the call, for the purpose of presenting such ballot question to the voters; provided, however, that, if a regular or Special Election is to be held not more than sixty (60) days following the date the referendum petition is filed, the ~~Board of Selectmen~~ Select Board may provide that such ballot question be presented to the voters at that Election.

2.15.2 Form of Referendum Petition /Ballot Question

Each ballot question submitted shall appear at the top of each referendum petition and shall be presented in the following form which shall be placed on the official ballot: "Shall the Town vote to approve the action of the representative Town Meeting whereby it was voted on (insert date of Town Meeting) to (insert complete language of the vote in the same form in which it was stated when presented by the Moderator to the Town Meeting, and as it appears in the records of the Clerk of the meeting)?"

The circulator(s) of the referendum petition may make multiple copies of the petition form, but such copies must be exact duplicates thereof, and the petition form may not be altered in any way. No extraneous markings, such as underlines, highlighting, erasures, marking out or insertion of words or other information, shall be allowed on any area of the petition form or any copy thereof. Any petition form or copy thereof containing such extraneous markings or alterations or that are not exact duplicates shall be invalid, and no signatures contained thereon shall be counted toward the

required number. For the purpose of this prohibition, the term "extraneous markings" shall not include signatures, names or addresses.

Each petition form shall include language informing voters that additional markings will disqualify the signatures on the petition form; that, for their signature to be counted, they must be a registered voter of the Town of Reading; that their signature shall be written in the same form as they are registered; that they should not sign the petition and any copy thereof more than once; and that, if they are prevented by physical disability from writing, they may authorize some person to write their name and address in their presence. The back of each petition form, where signature lines appear, shall include the following instruction: "ATTENTION VOTERS: Before signing, read signer information on the other side."

Upon request, the Town Clerk shall provide Town referendum petition/ballot question forms with the final article language voted at Town Meeting.

In addition to the certification of signatures on the petition form, the Board of Registrars of Voters shall examine the petition forms for extraneous markings, and determine whether they are exact copies.

2.15.3 Election

Any ballot question submitted in accordance with the procedure set forth herein shall be determined by majority vote thereon, but no action of the Town Meeting shall be reversed unless at least twenty percent (20%) of the voters cast ballots on the ballot question.

[Amended November 15, 2010 - Article 16]

[Article 2 - Amended January 5, 2015 - Articles 7 and 8 approved by vote of the Town on April 7, 2015]

ARTICLE 3 ELECTED OFFICERS AND BOARDS OR COMMITTEES

3.1 General Provisions

The offices to be filled by the voters shall be the ~~Board of Selectmen~~ Select Board, School Committee, Board of Library Trustees, Municipal Light Board of Commissioners, Moderator and such members of regional authorities or districts as may be established by statute, intergovernmental agreement executed pursuant to Section 1.5 or otherwise.

Only a registered voter of the Town shall be eligible to hold any elective town office; provided, however, that no person holding any elective Town office shall simultaneously hold any other elective Town office except that of Town Meeting Member.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

Elected Town Officers shall serve without compensation unless otherwise specifically voted by Town Meeting.

Elected Town Officers shall be subject to the call of the ~~Board of Selectmen~~ Select Board at all reasonable times for consultation, conference and discussion on any matter relating to their respective offices.

3.2 Board of Selectmen Select Board

There shall be a ~~Board of Selectmen~~ Select Board consisting of five (5) members elected for three (3) year terms so arranged that as nearly an equal number of terms as possible shall expire each year.

The executive powers of the Town shall be vested in the ~~Board of Selectmen~~ Select Board. The ~~Board of Selectmen~~ Select Board shall have all of the powers and duties granted to ~~Boards of Selectmen~~ Boards of Selectmen by the Constitution and General Laws of the Commonwealth of Massachusetts, and such additional powers and duties as may be provided by the Charter, by Town Bylaw, or by Town Meeting vote.

The ~~Board of Selectmen~~ Select Board shall cause the laws and orders for the government of the Town to be enforced and shall cause a record of all its official acts to be kept.

The ~~Board of Selectmen~~ Select Board shall appoint a Town Manager, a Town Counsel, a Town Accountant, not more than five (5) Constables, and any other appointed board or committee member for whom no other method of selection is provided by the Charter or by Town Bylaw.

The ~~Board of Selectmen~~ Select Board or its designee shall be the Licensing Board of the Town and shall have the power to issue licenses, to make all necessary rules and regulations regarding the issuance of such licenses, to attach such conditions and restrictions thereto as it deems to be in the public interest, and to enforce the laws relating to all businesses for which it issues licenses.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

3.3 School Committee

There shall be a School Committee consisting of six (6) members elected for three (3) year terms so arranged that two (2) terms shall expire each year.

The School Committee shall have all of the powers and duties granted to School Committees by the Constitution and General Laws of the Commonwealth of

Massachusetts and such additional powers and duties as provided by the Charter, by Town Bylaw or by Town Meeting vote.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

The School Committee shall 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 appoint a Superintendent of Schools and shall define ~~his- their~~ duties and terms of employment.

3.4 Board of Library Trustees

There shall be a Board of Library Trustees consisting of six (6) members elected for three (3) year terms so arranged that two (2) terms shall expire each year.

The Board of Library Trustees shall have all of the powers and duties granted to Boards of Library Trustees by the Massachusetts General Laws, and such additional powers and duties as may be authorized by the Charter, by Town Bylaw or by Town Meeting vote.

The Board of Library Trustees shall have control over the selection of Library materials, and shall have custody and management of the Library and of all property of the Town related thereto; provided, however, that the Town Manager or ~~his-their~~ designee shall have responsibility for the maintenance of the Library building and grounds. The Board of Library Trustees shall appoint a Library Director and shall define ~~his-their~~ duties and terms of employment, subject to the personnel policies and classification and compensation plans established by the ~~Board of Selectmen~~ Select Board.

The Board of Library Trustees shall administer all money or property that the Town may receive on behalf of the Library by gift or bequest in accordance with the provisions of such gift or bequest.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

3.5 Municipal Light Board of Commissioners

There shall be a Municipal Light Board of Commissioners consisting of five (5) members elected for three (3) year terms so arranged that as near an equal number of terms as possible shall expire each year.

The Municipal Light Board of Commissioners shall have all the powers and duties granted to cities and towns in respect to municipal lighting plants by Massachusetts General Laws Chapter 164, Section 34 *et seq.* and other general and special acts pertaining thereto, together with such further powers and duties assigned to them by the Charter, by Town Bylaw, or by Town Meeting vote.

The Municipal Light Board of Commissioners shall hire the General Manager of the Municipal Light Department and set ~~his-their~~ duties and terms of employment.

The Municipal Light Board of Commissioners shall appoint the Accounting Manager or Chief Accountant of the Municipal Light Department and appoint Counsel to the Municipal Light Department.

The Accounting Manager or Chief Accountant, as the case may be, and Counsel shall be subject to the supervision of the General Manager.

The Municipal Light Board of Commissioners shall approve warrants for payments of all bills and payroll of the Municipal Light Department and shall approve all contracts which are at or above the competitive sealed bid procedures level as stated in Massachusetts

General Laws Chapter 30B, Section 5 and, further, all contracts shall be made in accordance with Massachusetts General Laws Chapter 30B. Contracts for purchasing of power shall not be subject to Massachusetts General Laws Chapter 30B but shall be approved by the Municipal Light Board of Commissioners.

The Municipal Light Board of Commissioners shall employ the Auditor appointed by the Town of Reading Audit Committee.

The Municipal Light Board of Commissioners shall annually set electric rates and approve an annual operating budget and Capital Improvements Program each fiscal year. Such approval will be done by a majority vote of the Municipal Light Board of Commissioners. After the Municipal Light Board of Commissioners has approved an annual operating budget and Capital Improvements Program, it will present them to the Town of Reading Finance Committee and Town of Reading Town Meeting. Upon request of any of the other towns served by the Municipal Light Department, the Municipal Light Board of Commissioners shall make a presentation to the Finance Committee and/or Town Meeting of any such town(s).

[Amended April 28, 2003 - Article 7]

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

3.6 Moderator

There shall be a Moderator elected for a one (1) year term.

The Moderator shall have all of the powers and duties granted to Moderators by the Constitution and General Laws of the Commonwealth of Massachusetts, and such additional powers and duties as provided by the Charter, by Town Bylaw or by Town Meeting vote. The Moderator shall not simultaneously serve as an elected Town Meeting Member or in any other elected Town office.

[Amended January 5, 2015 - Articles 7 and 8 approved by vote of the Town on April 7, 2015]

[Article 3 - Amended January 5, 2015 - Articles 7 and 8 approved by vote of the Town on April 7, 2015]

ARTICLE 4 APPOINTED BOARDS OR COMMITTEES**4.1 Board of Assessors**

There shall be a Board of Assessors consisting of three (3) members appointed by the ~~Board of Selectmen-Select Board~~ for three (3) year terms so arranged that one (1) term shall expire each year.

The Board of Assessors shall have all the powers and duties granted to Boards of Assessors by the Massachusetts General Laws, and such additional powers and duties as may be provided by the Charter, by Town Bylaw or by Town Meeting vote.

~~The elected members of the Board of Assessors serving at the time that this section first becomes effective may continue to serve in office until their elected terms expire, unless reappointed for an additional term or terms pursuant to this section.~~

[Amended November 30, 1989 - Article 36 and approved by vote of the Town on March 19, 1990]

4.2 Board of Cemetery Trustees

There shall be a Board of Cemetery Trustees consisting of six (6) members appointed by the ~~Board of Selectmen-Select Board~~ for three (3) year terms so arranged that two (2) terms shall expire each year.

The Board of Cemetery Trustees shall have all the powers and duties granted to Boards of Cemetery Trustees by the Massachusetts General Laws, and such additional powers and duties as may be provided by the Charter, by Town Bylaw or by Town Meeting vote.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

4.3 Board of Commissioners of Trust Funds

There shall be a Board of Commissioners of Trust Funds consisting of five (5) members. Three (3) shall be appointed by the ~~Board of Selectmen-Select Board~~ for three (3) year terms so arranged that one (1) term shall expire each year. In addition, the ~~Board of Selectmen-Select Board~~ shall appoint one of its members to serve as a full voting member *ex officio*, and the Town Treasurer shall serve as a full voting member *ex officio*.

The Board of Commissioners of Trust Funds shall have such powers and duties as are granted to them by the ~~Board of Selectmen-Select Board~~.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

4.4 Board of Health

There shall be a Board of Health consisting of five (5) members appointed by the ~~Board of Selectmen-Select Board~~ for three (3) year terms so arranged that one (1) term shall expire each year.

The Board of Health shall have all of the powers and duties granted to Boards of Health by the Massachusetts General Laws, and such additional powers and duties as may be provided by the Charter, by Town Bylaw or by Town Meeting vote.

4.5 Community Planning and Development Commission

There shall be a Community Planning and Development Commission consisting of five (5) members appointed by the ~~Board of Selectmen-Select Board~~ for three (3) year terms so arranged that as nearly an equal number of terms as possible shall expire each year.

The Community Planning and Development Commission shall have all of the powers and duties granted to Planning Boards, Boards of Survey and Industrial Development Commissions by the Massachusetts General Laws, and such additional powers and duties as may be provided by the Charter, by Town Bylaw or by Town Meeting vote. The Community Planning and Development Commission shall have the power to regulate the subdivision of land within the Town by the adoption of Rules and Regulations pertaining thereto.

The Community Planning and Development Commission shall make studies and prepare plans concerning the resources, developmental potential and needs of the Town; and shall report annually to the Town giving information regarding the physical condition of the Town, and any plans or proposals known to it affecting the resources, physical development and needs of the Town.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

4.6 Conservation Commission

There shall be a Conservation Commission consisting of seven (7) members appointed by the ~~Board of Selectmen~~ Select Board for three (3) year terms so arranged that as near an equal number of terms as possible shall expire each year.

The Conservation Commission shall have all the powers and duties granted to Conservation Commissions by the Massachusetts General Laws, and such additional powers and duties as may be provided by the Charter, by Town Bylaw or by Town Meeting vote.

4.7 Council on Aging

There shall be a Council on Aging consisting of ten (10) members appointed by the ~~Board of Selectmen~~ Select Board for three (3) year terms so arranged that as near an equal number of terms as possible shall expire each year.

The Council on Aging shall have all the powers and duties given to Councils on Aging by the Massachusetts General Laws, and such additional powers and duties as may be provided by the Charter, by Town Bylaw or by Town Meeting vote.

4.8 Historical Commission

There shall be a Historical Commission consisting of five (5) members appointed by the ~~Board of Selectmen~~ Select Board, ~~which shall determine the number of members and their term of appointment, not to exceed three (3) years for three (3) year terms so arranged that as near an equal number of terms as possible shall expire each year.~~

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The Historical Commission shall have all the powers and duties granted to Historical Commissions by the Massachusetts General Laws, and such additional powers and duties as may be provided by the Charter, by Town Bylaw or by Town Meeting vote.

4.9 Housing Authority

There shall be a Housing Authority consisting of five (5) members. Four (4) members shall be appointed by the ~~Board of Selectmen~~ Select Board, and the fifth (5th) member shall be ~~a resident of the Town~~, appointed by the Commonwealth of Massachusetts or as otherwise provided by law and be a resident of the Town. Housing Authority Members shall serve for five (5) year terms so arranged that one (1) term shall expire each year.

The Housing Authority shall have all of the powers and duties granted to housing authorities by the Massachusetts General Laws, and such additional powers and duties as may be provided by the Charter, by Town Bylaw or by Town Meeting vote.

4.10 Recreation Committee

There shall be a Recreation Committee consisting of nine (9) members, eight (8) appointed by the ~~Board of Selectmen~~ Select Board, and one (1) appointed by the School Committee for three (3) year terms so arranged that three (3) terms shall expire each year.

The Recreation Committee shall have such powers and duties as are granted to them by the ~~Board of Selectmen~~ Select Board, and such additional powers and duties as may be provided by the Charter, by Town Bylaw or by Town Meeting vote.

The Recreation Committee shall be responsible for the evaluation of recreational program activities, formulation of overall plans for recreational program development, and for the scheduling of Town parks and recreational facilities when not in use by the School Department.

4.11 Town Forest Committee

There shall be a Town Forest Committee consisting of five (5) members, appointed by the ~~Board of Selectmen~~ Select Board, ~~which shall determine the number of members and their term of appointment, not to exceed three (3) years.~~ for three (3) year terms so arranged that as near an equal number of terms as possible shall expire each year.

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The Town Forest Committee shall have all the powers and duties given to Town Forest Committees by the Massachusetts General Laws, and such additional powers and duties as may be provided by the Charter, by Town Bylaw, by the ~~Board of Selectmen~~ Select Board or by Town Meeting vote.

4.12 Zoning Board of Appeals

There shall be a Zoning Board of Appeals consisting of five (5) members and two (2) associate members appointed by the ~~Board of Selectmen~~ Select Board for three (3) year terms so arranged that as near an equal number of terms as possible shall expire each year.

The Zoning Board of Appeals shall have all the powers and duties of Zoning Boards of Appeal under the Massachusetts General Laws, and such additional powers and duties as may be provided by the Charter, by Town Bylaw or by Town Meeting vote.

[Amended November 17, 2005 - Article 22 and approved by vote of the Town on April 4, 2006]

4.13 Charter Review Committee

At least every ten (10) years, a special Committee consisting of nine (9) members shall be established for the purpose of reviewing the Charter and making a report, with recommendations, to the Town Meeting concerning any proposed amendments that said Committee may determine to be necessary or desirable. The Committee shall consist of the Moderator, one (1) member or designee of the ~~Board of Selectmen~~ Select Board, one (1) member or designee of the School Committee, one (1) member or designee of the Board of Library Trustees, one (1) member or designee, of the Municipal Light Board of Commissioners, one (1) member of the Bylaw Committee and three (3) Town Meeting members to be appointed by the Moderator.

4.14 Other Boards or Committees

Any of the elected boards or committees authorized by Article 3 may establish and appoint or dissolve boards or committees from time to time for a specific purpose. Members of such boards or committees shall reside in the Town of Reading at the time of their appointment and during their term of office.

The appointing authority of any such board or committee shall, in advance of the first meeting of said board or committee and annually thereafter, report the purpose, membership and contact information of said board or committee to the Town Clerk.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]
[Amended November 15, 2010 - Article 15 and approved by vote of the Town on April 6, 2010]

4.15 Associate Membership

All appointed boards or committees authorized by Article 4 may have associate members if specified in the Charter, Town Bylaw or Massachusetts General Laws. Associate members shall be appointed in the same manner as other members of the board or committee. All rules and regulations relating to associate membership on appointed boards or committees shall be set forth in the Bylaw or Charter provision defining the conduct of such bodies.

Associate members may not vote on any issue to be decided by the board or committee to which the individual is appointed as an associate member except as allowed by the Charter, Town Bylaw or the Massachusetts General Laws. ~~Associates members of boards or committees serving as of the effective date of this Section 4.15 shall be allowed to serve until the end of their term or until June 30, 2015, whichever comes first.~~

[Article 4 - Amended January 5, 2015 - Articles 7 and 8 approved by vote of the Town on April 7, 2015]

ARTICLE 5 TOWN MANAGER

5.1 Appointment, Qualifications and Term

The ~~Board of Selectmen~~ Select Board shall appoint a Town Manager, who shall be appointed solely on the basis of ~~his~~ their executive and administrative qualifications. ~~He~~ The Town Manager shall be a professionally qualified person of proven ability, especially fitted by education, training and previous experience. ~~He~~ The candidate shall have ~~had~~ at least ~~five (5)~~ three (3) years of full-time paid experience as a City or Town Manager or Assistant City or Town Manager or five (5) years of ~~the~~ equivalent level public or private sector experience.

The terms of the Town Manager's employment shall be the subject of a written contract, for a term not to exceed three (3) years, setting forth ~~his~~ their tenure, compensation, vacation, sick leave, benefits, and such other matters as are customarily included in an employment contract. The Town Manager's employment contract shall be in accordance with and subject to the provisions of the Charter and shall prevail over any conflicting provision of any personnel bylaw, rule, or regulation. The Town Manager's compensation shall not exceed the amount annually appropriated for that purpose.

The Town Manager shall devote full time to ~~his~~ the office and, except as expressly authorized by the ~~Board of Selectmen~~ Select Board, shall not engage in any other business or occupation. Except as expressly provided in the Charter, ~~he~~ the Town Manager shall not hold any other public elective or appointive office in the Town; provided, however, that, with the approval of the ~~Board of Selectmen~~ Select Board, the Town Manager may serve as the Town's representative to regional boards, commissions or similar entities, but shall not receive any additional salary from the Town for such services.

Upon the termination of the Town Manager's appointment, whether voluntary or otherwise, ~~he~~ the Town Manager may receive termination pay as determined by the ~~Board of Selectmen~~ Select Board, not to exceed twelve (12) months' salary in total. To be eligible for this benefit upon voluntary termination, the Town Manager shall provide the ~~Board of Selectmen~~ Select Board a minimum of sixty (60) days written notice of ~~his~~ their intent to leave. This benefit shall not be available if the Town Manager is terminated for cause.

[Amended November 10, 1997 - Article 7 and approved by vote of the Town on March 24, 1998]
 [Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]
 [Amended November 21, 2011 - Article 28 and approved by vote of the Town on March 6, 2012]

5.2 Powers and Duties

The Town Manager shall be the Chief Administrative Officer of the Town and shall be responsible to the ~~Board of Selectmen~~ Select Board for the proper administration of all Town affairs placed in ~~his~~ their charge by or under the Charter. The Town Manager's powers and duties shall include:

- a To supervise and be responsible for the efficient administration of all functions under ~~his~~ the Town Manager's control, as may be authorized by the Charter, by Town Bylaw, by Town Meeting vote or by the ~~Board of Selectmen~~ Select Board, including all officers appointed by ~~him~~ the Town Manager and their respective departments.
- b To appoint and remove, subject to the civil service laws where applicable, the Police Chief, Fire Chief, Appraiser and all employees for whom no other method of appointment is provided in the Charter, except persons serving under the School Committee, Municipal Light Board of Commissioners or Board of Library Trustees, and appointments made by the representatives of the Commonwealth of

Massachusetts. The Town Manager's appointment of the Police Chief and Fire Chief shall be subject to confirmation by the ~~Board of Selectmen~~ Select Board. The Town Manager's appointment of the Appraiser shall be subject to confirmation by the Board of Assessors.

- c To administer all personnel policies, practices and related matters for all municipal employees as established by any compensation plan, personnel policy guide or Town Bylaw, and all collective bargaining agreements entered into by the ~~Board of Selectmen~~ Select Board on behalf of the Town.
- d To fix the compensation of all Town officers and employees appointed by ~~him the Town Manager~~ within the limits established by applicable appropriations and any compensation plan adopted by ~~the~~ Town Meeting.
- e To attend all regular and special meetings of the ~~Board of Selectmen~~ Select Board, unless excused at ~~his the Town Manager's own~~ request, and to have a voice, but no vote, in all discussions.
- f To attend all sessions of Town Meetings and to answer all questions ~~directed related to him the office that are related to his office.~~
- g To see that all of the provisions of the Massachusetts General Laws, of the Charter, of the Town Bylaws, of Town Meeting votes, and of votes of the ~~Board of Selectmen~~ Select Board that require enforcement by ~~him the Town Manager~~ or Town Officers and employees subject to ~~his the Town Manager's~~ direction and supervision are faithfully carried out.
- h To prepare and submit a proposed Annual Operating Budget and a Capital Improvements Program in accordance with Article 7.
- i To ensure that a full and complete record of the financial and administrative activities of the Town is kept, and to render a full report to the ~~Board of Selectmen~~ Select Board at the end of each fiscal year and at such other times as may be required by the ~~Board of Selectmen~~ Select Board.
- j To keep the ~~Board of Selectmen~~ Select Board fully informed as to the financial condition and needs of the Town and to make such recommendations to the ~~Board of Selectmen~~ Select Board as ~~he the Town Manager~~ may deem necessary or appropriate.
- k To have full responsibility for the rental and use of all Town facilities, except those under the care, custody, management and control of the School Committee, the Board of Library Trustees, the Municipal Light Board of Commissioners, or other boards or committees specified by Town Bylaw or Town Meeting vote. ~~He The Town Manager or his their~~ designee shall be responsible for the maintenance and repair of all Town property under ~~his the Town Manager's~~ control.
- l To inquire into the conduct of any Town Officer, employee or department under ~~his the Town Manager's~~ control.
- m To keep a full and complete inventory of all real and personal property of substantial value belonging to the Town.
- n To serve as Chief Procurement Officer pursuant to the provisions of Massachusetts General Laws Chapter 30B and to be responsible for purchasing all supplies, materials, equipment, goods and services, except those of the School Committee and the Municipal Light Board of Commissioners; to negotiate and approve the award of all contracts for all departments and activities of the Town except those of the School Committee and Municipal Light Board of Commissioners; to examine the services performed for any Town Agency pursuant to any such contract; and to examine and inspect, or cause to be examined and inspected, the quality, quantity and conditions of materials, supplies, equipment or goods delivered to or received by any Town Agency.
- o To approve any warrants for the payment of Town funds prepared by the Accountant in accordance with the provisions of the Massachusetts General Laws; provided,

however, that the approval of any such warrant by the Town Manager shall be sufficient to authorize payment by the Town Treasurer, and provided further that the ~~Board of Selectmen~~ Select Board shall approve such warrants in the event of a vacancy in the office of Town Manager.

- p** To serve as the Executive Officer of the Town for the purposes of Massachusetts General Laws Chapter 258.
- q** To perform any other duties required of ~~him the Town Manager~~ by the Charter, by Town Bylaw, by Town Meeting vote or by the ~~Board of Selectmen~~ Select Board.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

5.3 Ombudsman Constituent Services Officer

The Town Manager shall appoint a Town employee other than ~~himself or herself the Town Manager~~ to act as an ~~Ombudsman representative~~ to all citizens in their day-to-day contacts and dealings with the Town, its officials and boards or committees. The function of the ~~Ombudsman Officer~~ shall be:

- a** To direct the citizens to the proper Town Officer, board or committee to deal with the issue or concern of the citizen;
- b** To set up appointments for citizens to meet with directors, department heads and boards or committees as appropriate;
- c** To provide citizens with access to public information within the Town; and
- d** To otherwise serve the public in connection with their dealings with the Town.

The ~~office of the Town Ombudsman Constituent Services Office~~ shall be clearly and conspicuously marked within ~~the~~ Town Hall.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

5.4 Acting Town Manager

5.4.1 Temporary Absence

By letter filed with the Town Clerk and the ~~Board of Selectmen~~ Select Board, the Town Manager shall designate a qualified individual to serve as Acting Town Manager during any anticipated temporary absence, not to exceed thirty (30) days.

5.4.2 Long-Term Absence

In the event of the absence, incapacity, or illness of the Town Manager in excess of thirty (30) days, the ~~Board of Selectmen~~ Select Board shall appoint a qualified individual to serve as Acting Town Manager until the Town Manager returns.

5.4.3 Vacancy

When the office of Town Manager is vacant or the Town Manager is under suspension as provided in Section 5.5, the ~~Board of Selectmen~~ Select Board shall appoint a qualified individual to serve as Acting Town Manager under terms of employment to be determined by the ~~Board of Selectmen~~ Select Board. In the event of vacancy, the ~~Board of Selectmen~~ Select Board shall initiate recruitment for a new Town Manager without delay and shall appoint a new Town Manager within one hundred eighty (180) days.

5.4.4 Powers

Except as authorized by a four-fifths (4/5) vote of the ~~Board of Selectmen~~ Select Board, the powers of an Acting Town Manager shall be limited to routine matters requiring immediate action and to making emergency temporary appointments to any Town office or employment within the scope of the Town Manager's responsibilities.

5.5 **Removal Procedures**

The ~~Board of Selectmen~~ Select Board may remove the Town Manager from office as follows:

5.5.1 **Notice**

By affirmative vote of a majority of its members, the ~~Board of Selectmen~~ Select Board may adopt a preliminary resolution of removal setting forth in reasonable detail the reason or reasons for the proposed removal. The preliminary resolution may suspend the Town Manager for a period not to exceed forty-five (45) days. A copy of the resolution shall be delivered to the Town Manager forthwith following its adoption.

5.5.2 **Public Hearing**

Within five (5) days (see Section 8.5) after the delivery of the preliminary resolution of removal, the Town Manager may request a public hearing on the reasons cited for removal by filing a written request therefor with the ~~Board of Selectmen~~ Select Board. The hearing shall be convened by the ~~Board of Selectmen~~ Select Board not less than twenty (20) nor more than thirty (30) days after such request is submitted. Not less than five (5) days (see Section 8.5) prior to such hearing, written notice thereof shall be given to the Town Manager at ~~his~~ the Town Manager's last known legal address on file. The time limitations set forth herein may be waived in writing by the Town Manager. Not less than forty-eight (48) hours prior to the time set for the commencement of the public hearing, the Town Manager may file a written statement with the ~~Board of Selectmen~~ Select Board responding to the reasons cited for the proposed removal. The Town Manager may be represented by counsel at the public hearing, and shall be entitled to present evidence, call witnesses and, personally or through counsel, question any witnesses appearing at the hearing.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

5.5.3 **Removal**

The ~~Board of Selectmen~~ Select Board may, by a vote of a majority of its members, adopt a final resolution of removal, which shall be effective upon its adoption; provided, however, that such resolution shall not be adopted until:

- a Ten (10) days after the date of delivery to the Town Manager of the preliminary resolution of removal; or
- b If the Town Manager has made a timely request for a public hearing, five (5) days (see Section 8.5) after completion of the public hearing or forty-five (45) days after the adoption of the preliminary resolution, whichever occurs later.

Failure to adopt a final resolution of removal within the time limitations provided in this section shall be deemed to nullify the preliminary resolution of removal. The action of the ~~Board of Selectmen~~ Select Board in suspending or removing the Town Manager shall be final, it being the intention of this provision to vest all authority and fix all responsibility for such suspension or removal in the ~~Board of Selectmen~~ Select Board. The Town Manager shall continue to receive ~~his~~ their salary until a final resolution of removal has become effective.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]
[Article 5 - Amended January 5, 2015 - Articles 7 and 8 approved by vote of the Town on April 7, 2015]

ARTICLE 6 ADMINISTRATIVE ORGANIZATION

6.1 Organization of Town Agencies

The organization of the Town into operating Town Agencies shall be accomplished through the establishment of a Table of Organization that presents the organization of all Town Agencies. Such table shall be prepared by the Town Manager in consultation with the ~~Board of Selectmen~~ Select Board and may be revised from time to time.

[Amended November 17, 2011 - Article 20 and approved by vote of the Town on April 5, 2011]

For the convenience of the public, the Table of Organization shall be printed as an appendix to, but not as part of, the Bylaws of the Town. The Table of Organization shall also be published annually in the Town Report.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]
[Amended November 17, 2011 - Article 20 and approved by vote of the Town on April 5, 2011]
[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

6.2 Town Counsel

Appointment and Qualifications – The ~~Board of Selectmen~~ Select Board shall appoint ~~a~~ an individual or law firm as Town Counsel and fix ~~his~~ compensation within the amount annually appropriated for that purpose. The person appointed and employed by the ~~Board of Selectmen~~ Select Board as Town Counsel or the member of law firm representing the town in this capacity shall be a member in good standing of the bar of the Supreme Judicial Court of Massachusetts and free of disciplinary actions of all other courts before which ~~he~~ they have ~~has~~ been admitted to practice. Any Special Counsel employed by the ~~Board of Selectmen~~ Select Board shall be a member in good standing of the bar of all courts before which ~~he~~ they have ~~has~~ been admitted to practice.

Powers and Duties – The Town Counsel shall provide legal advice, representation and litigation services to the Town, Town Agencies and Town Officers, as the ~~Board of Selectmen~~ Select Board or Town Manager may request or authorize.

Vacancy – If the Town Counsel is unable to perform ~~his~~ their duties because of disability or absence or if the office is vacant because of resignation, dismissal or death, the ~~Board of Selectmen~~ Select Board may appoint a temporary Town Counsel to hold such office and exercise the powers and perform the duties until the Town Counsel can resume ~~his~~ their duties, or until another Town Counsel is duly appointed.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

6.3 Town Accountant

Appointment, Qualification and Term of Office – There shall be a Town Accountant, appointed by the ~~Board of Selectmen~~ Select Board. The Town Accountant shall be qualified in accordance with State law, and shall have appropriate prior full-~~time~~ accounting experience as determined by the ~~Board of Selectmen~~ Select Board.

The Town Accountant shall be appointed in March of every year for a one (1) year term to run from the first day of the following July and shall serve until the qualification of ~~his~~ a successor.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

Powers and Duties – The Town Accountant shall be subject to the supervision of the Town Manager. In addition to the powers and duties conferred and imposed upon Town

Accountants by the Massachusetts General Laws, ~~his~~their powers and duties shall include:

- a To prescribe the methods of installation and exercise supervision of all accounting records of Town Agencies and Town Officers; provided, however, that any change in the system of accounts shall be made only after consultation with the Town Manager and the Town Agencies affected.
- b To establish standard practices relating to all accounting matters and procedures and the coordination of systems throughout the Town, including clerical and office methods, records, reports and procedures as they relate to accounting matters; and to prepare and issue rules, regulations and instructions relating thereto that, when approved by the Town Manager, shall be binding upon all Town Agencies and employees.
- c To draw all warrants upon the Town Treasurer for the payment of bills, drafts and orders chargeable to the appropriations of the Town Meeting and other accounts.
- d Prior to submitting any warrant to the Town Manager, to examine and approve as not being fraudulent, unlawful or excessive, all bills, drafts and orders covered thereby. In connection with any such examinations, he may make inspection as to the quality, quantity and condition of any materials, supplies or equipment delivered to or received by any Town Agency or Town Officer. If, upon examination, it appears to the Town Accountant that any such bill, draft or order is fraudulent, unlawful, or excessive, ~~he the Town Accountant~~ shall immediately file a written report with the Town Manager, ~~and~~ Town Treasurer, ~~and~~ Chairman of the Finance Committee, ~~a written report of his findings.~~
- e To be responsible for a continuous audit of all accounts and records of the Town wherever located.

Vacancy – If the Town Accountant is unable to perform ~~his~~their duties because of disability or absence or if the office is vacant because of resignation, dismissal or death, the ~~Board of Selectmen~~Select Board may appoint a temporary Town Accountant to hold such office and exercise the powers and perform the duties until the Town Accountant can resume ~~his~~their duties, or until another Town Accountant is duly appointed, in the same manner as an original appointment, for the remainder of the unexpired term.

6.4 **Town Treasurer**

Appointment and Qualifications – There shall be a Town Treasurer, appointed by the Town Manager. The Town Treasurer shall be qualified in accordance with the Massachusetts General Laws.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

The ~~Board of Selectmen~~Select Board, upon the recommendation of the Town Manager, may combine the powers and duties of the Town Treasurer with those of the Town Collector, and the Town Manager may then appoint a Town Treasurer-Collector.

Powers and Duties – In addition to the powers and duties conferred and imposed upon Town Treasurers by the Massachusetts General Laws, the powers and duties of the Town Treasurer shall include:

- a To supervise and be responsible for the prompt deposit, safekeeping and management of all monies collected or received by the Town.
- b To be the custodian of all funds, moneys, securities or other things of value that are or have been given, bequeathed or deposited in trust with the Town for any purpose, including the preservation, care, improvement or embellishment of any of the Town's cemeteries or burial lots therein; to invest all sums held in trust as ~~he~~they

determines to be appropriate after consultation with the Board of Commissioners of Trust Funds; and to distribute the income therefrom on the order of said Board.

Vacancy – If the Town Treasurer is unable to perform ~~his~~their duties because of disability or absence or if the office is vacant because of resignation, dismissal or death, the Town Manager may appoint a temporary Town Treasurer to hold such office and exercise the powers and perform the duties until the Town Treasurer can resume ~~his~~their duties, or until another Town Treasurer is duly appointed.

6.5 **Town Collector**

Appointment and Qualifications – There shall be a Town Collector, appointed by the Town Manager. The Town Collector shall be qualified in accordance with the Massachusetts General Laws.

The ~~Board of Selectmen~~ Select Board, upon the recommendation of the Town Manager, may combine the powers and duties of the Town Collector with those of the Town Treasurer, and the Town Manager may then appoint a Town Treasurer-Collector.

Powers and Duties – In addition to the powers and duties conferred and imposed upon Town Collectors by the Massachusetts General Laws, the powers and duties of the Town Collector shall include:

- a To be responsible for the collection and receipt of all sums and accounts due, owing or paid to the Town including taxes and fees, and shall act as the Town Collector of Taxes.
- b To report to the Town Manager at such times as ~~the Town Manager may direct or deem appropriate he may direct or as he may deem appropriate~~, but at least semi-annually, as to all uncollected claims or accounts due or owing to the Town. Such reports shall include the Town Collector's recommendations as to whether suit should be instituted on behalf of the Town for the establishment or collection of any claim or account for the benefit of the Town.

Vacancy – If the Town Collector is unable to perform ~~his~~their duties because of disability or absence or if the office is vacant because of resignation, dismissal or death, the Town Manager may appoint a temporary Town Collector to hold such office and exercise the powers and perform the duties until the Town Collector can resume ~~his~~their duties, or until another Town Collector is duly appointed.

6.6 **Town Clerk**

Appointment and Qualifications – There shall be a Town Clerk, appointed by the Town Manager. The Town Clerk shall be qualified in accordance with the Massachusetts General Laws.

Powers and Duties – The Town Clerk shall have all the powers and duties conferred and imposed upon Town Clerks by the Massachusetts General Laws or by Town Bylaw.

Vacancy – If the Town Clerk is unable to perform ~~his~~their duties because of disability or absence or if the office is vacant because of resignation, dismissal or death, the Town Manager may appoint a temporary Town Clerk to hold such office and exercise the powers and perform the duties until the Town Clerk can resume ~~his~~their duties, or until another Town Clerk is duly appointed.

[Article 6 - Amended January 5, 2015 - Articles 7 and 8 approved by vote of the Town on April 7, 2015]

ARTICLE 7 BUDGET AND CAPITAL IMPROVEMENTS PROGRAM**7.1 Fiscal Year**

The fiscal year of the Town shall begin on July first (1st) and end on June thirtieth (30th), unless another provision is made by the Massachusetts General Laws.

7.2 Submission of Proposed Budget

At least four (4) months before the start of the fiscal year and following consultation with the ~~Board of Selectmen~~ Select Board on the Municipal Government portions of the budget, the Town Manager shall submit to the Finance Committee a proposed budget for the ensuing fiscal year with an accompanying budget message and supporting documents. ~~He~~ The Town Manager shall simultaneously provide for the publication in a local news medium of a general summary of the proposed budget, and a notice stating the times and places where complete copies of ~~his~~ the proposed budget shall be available for examination by the public.

[Amended November 21, 2011 - Article 29 and approved by vote of the Town on March 6, 2012]

7.3 School Committee Budget

The budget requested by the School Committee shall be submitted to the Town Manager at least five (5) months before the start of the fiscal year to enable ~~him~~ the Town Manager to prepare the total Town budget pursuant to Section 7.2.

7.3.1 Public Hearing

At least fourteen (14) days before the meeting at which the School Committee is to vote on its budget request, the School Committee shall cause to be published in a local news medium a general summary of such budget request. The summary shall indicate specifically any major variations from the current year's budget and the reasons for such variations and a notice stating the times and places where complete copies of the budget shall be available for examination by the public, as well as the date, time and place, not less than seven (7) days (see Section 8.5) following such publication, when a public hearing shall be held by the School Committee on the budget request.

7.4 Budget Message

The Budget Message submitted by the Town Manager shall explain the proposed budget for all Town agencies, both in fiscal terms and in terms of work programs. The Budget Message shall include a current Table of Organization and may include a proposed Table of Organization.

7.5 The Proposed Budget

The proposed budget shall provide a complete financial plan for all Town funds and activities; shall be balanced to the funds available; and shall present the budget as requested by the School Committee for the ensuing year. Except as may otherwise be required by the Massachusetts General Laws or by the Charter, the proposed budget shall be in the form that the Town Manager deems desirable. In ~~his~~ the presentation of the budget, the Town Manager shall make use of modern concepts of fiscal presentation so as to furnish a high level of information and maximum financial control. The proposed budget shall show the actual and estimated income and expenditures for the previous, current and ensuing fiscal years and shall indicate in separate sections:

- a Proposed expenditures for current operations during the ensuing fiscal year, detailed by Town Agency, function and work programs, and the proposed methods of financing such expenditures.

- b Proposed capital expenditures during the ensuing fiscal year, detailed by Town Agency, and the proposed method of financing each such capital expenditure.
- c Estimated surplus revenue and free cash at the end of the current fiscal year, including estimated balances in any special accounts established for specific purposes.
- d All encumbered funds from prior fiscal years.

7.6 Action on the Budget

7.6.1 Public Hearing

The Finance Committee shall, forthwith upon receipt of the proposed budget, provide for publication in a local news medium of a notice stating the date, time and place, not less than five (5) nor more than fourteen (14) days following such publication, when a public hearing shall be held by the Finance Committee on the proposed budget.

7.6.2 Finance Committee Meetings

The Finance Committee shall consider in public meetings the detailed expenditures proposed by the Town Manager for each ~~Town Agency, and Town Agency and~~ may confer with representatives of any such Town Agency in connection with such considerations. The Finance Committee may require the Town Manager or any other Town Agency to provide such additional information as it deems necessary or desirable in furtherance of its responsibilities.

7.6.3 Presentation to ~~the~~ Town Meeting

The Finance Committee shall file a report of its recommendations with the Town Clerk in sufficient time to be distributed to all Town Meeting Members at least fourteen (14) days before action on the budget Warrant Article is to begin. The budget to be acted upon by ~~the~~ Town Meeting shall be the budget as proposed by the Finance Committee; provided, however, that such budget may be amended by ~~the~~ Town Meeting.

- 7.6.4 All Warrant Articles requiring an appropriation shall be considered and reported thereon by the Finance Committee.

7.7 Capital Improvements Program

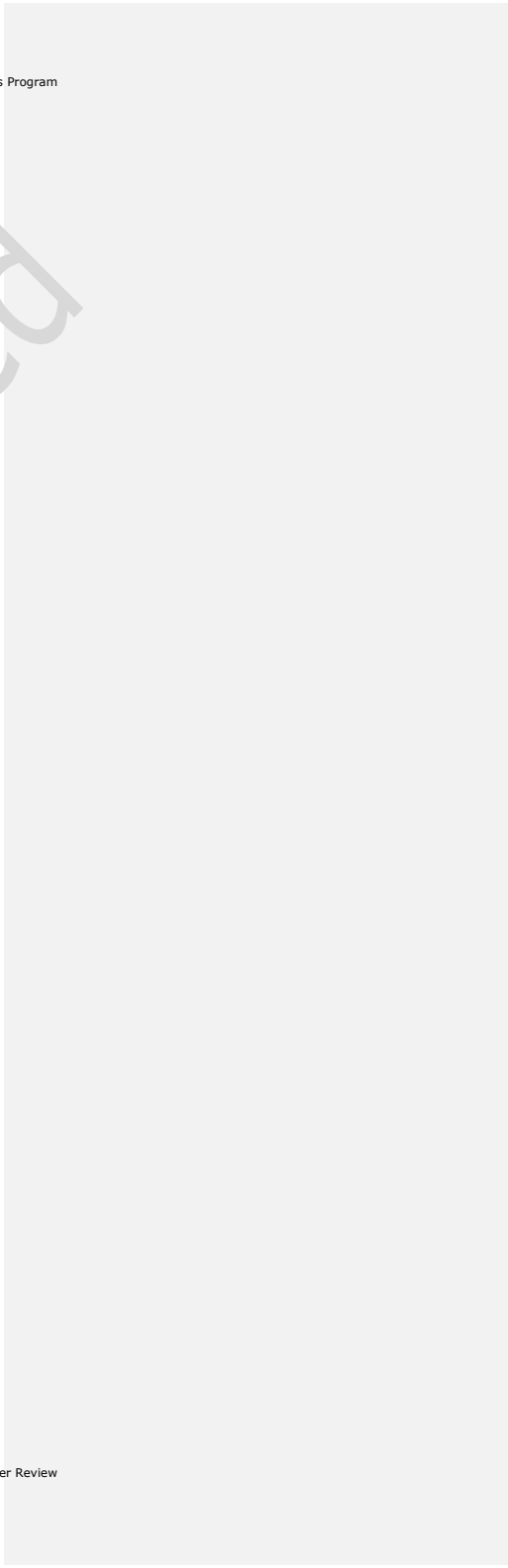
The Town Manager shall submit a Capital Improvements Program to the ~~Board of Selectmen-Select Board~~ and the Finance Committee at least thirty (30) days before the date fixed for submission of ~~his-the~~ proposed budget. Such Capital Improvements Program shall contain:

- a A general summary of its contents;
- b A list of all capital improvements proposed to be undertaken during the ensuing five (5) years, with supporting information as to the need for each capital improvement; and
- c Cost estimates, methods of financing and recommended time schedules for each such capital improvement.

The Capital Improvements Program may further contain the estimated annual cost of operating and maintaining each such capital improvement. This information may be annually revised with regard to the capital improvements still pending or in the process of being acquired, improved or constructed.

[Article 7 - Amended January 5, 2015 - Articles 7 and 8 approved by vote of the Town on April 7, 2015]

Draft - Not Approved



ARTICLE 8 GENERAL PROVISIONS**8.1 Charter Changes**

This Charter may be replaced, revised or amended in accordance with the procedures made available by Article LXXXIX of the amendments to the Constitution of the Commonwealth of Massachusetts and Chapter 43B of the Massachusetts General Laws.

[Amended November 19, 2001 - Article 11]

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

8.2 Severability

If any provision of the Charter shall be found invalid for any reason in a court of competent jurisdiction, such invalidity shall be construed as narrowly as possible, and the balance of the Charter shall be deemed to be amended to the minimum extent necessary, so as to secure the purposes thereof, as set forth in the Preamble.

8.3 Specific Provisions Prevail

To the extent that any specific provision of the Charter may conflict with any provision expressed in general terms, the specific provision shall be deemed to prevail.

8.4 References to Massachusetts General Laws

All references to the Massachusetts General Laws 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 Massachusetts General Laws enacted subsequent to the adoption of the Charter.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

8.5 Computation of Time

In computing time under the Charter, if seven (7) days or less is specified, only days that Town Hall is open to the general public shall be counted; if more than seven (7) days is specified, every calendar day shall be counted.

8.6 Number and Gender

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

8.7 Rules and Regulations

A copy of all Rules and Regulations adopted by any Town Agency shall be filed in the Office of the Town Clerk and made available for review by any person upon request provided, however, that such Rules and Regulations shall become effective ten (10) days following their adoption, whether or not they are so filed.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

8.8 Procedures of Boards or Committees**8.8.1 Meetings**

All boards or committees shall meet in compliance with Open Meeting Laws at such times and places as they may, by their own rules, prescribe. Additional meetings of any board or committee shall be held on the call of the respective chair or by a majority of the members thereof.

8.8.2 Rules and Minutes

Each board or committee shall determine its own rules and order of business unless otherwise provided by the Charter or by Town Bylaw and shall provide for the keeping of minutes of its proceedings. Copies of these rules and minutes shall be publicly available in the Office of the Town Clerk ~~and on the Town website, and in the Library.~~

8.8.3 Voting

Except on procedural matters, all votes of all boards or committees shall be taken by a show of hands, or roll call vote, the results of which shall be recorded in the minutes. A majority vote shall be necessary to adopt any motion, order, appointment or approval to take any action not entirely procedural in nature.

8.8.4 Quorum

A majority of the number of members of a board or committee specified in the Charter or other action creating such board or committee shall constitute a quorum thereof, but a smaller number may adjourn a board or committee meeting ~~from time to time to another time.~~

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

8.9 Elections**8.9.1 Annual Town Elections**

The choice of elected Town Officers and Town Meeting Members, as well as referendum questions, shall be acted upon and determined on the date fixed by Town Bylaw by voters on official ballots without party or other designation.

8.9.2 Procedures

All elections held pursuant to the Charter shall be conducted in accordance with the election laws of the Commonwealth of Massachusetts.

8.9.3 Any town-wide election shall be held at the same time for each precinct at a place or places designated by the ~~Board of Selectmen, Select Board.~~

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

8.10 Vacancies on Boards or Committees

Whenever a new board or committee is established, or a vacancy occurs on any existing board or committee, the appointing authority shall forthwith cause notice of the vacancy to be publicly available for not less than fifteen (15) days. Any ~~person-person~~ who desires to be considered for appointment to the position may, prior to the time the position is actually filled, file with the Town Clerk a statement setting forth ~~his-their~~ interest in and qualifications for the position.

[Amended November 13, 1986 - Article 17 and approved by vote of the Town on March 23, 1987]

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

8.11 Recall Procedures**8.11.1 Application**

Any holder of an elective office, other than a Town Meeting Member, with more than six (6) months remaining in the term for which ~~he-they were was~~ elected, may be recalled therefrom by the voters in the manner provided in this section. No recall petition shall be filed against a Town Officer within three (3) months after ~~he-they~~ takes office.

8.11.2 Recall Petition

~~Two hundred and fifty (250) or more~~ Two percent (2%) of registered voters, including at least twenty-five (25) voters from each of the precincts into which the Town is divided, ~~may shall~~ file with the Town Clerk an affidavit containing the name of the Town Officer whose recall is sought and a sworn statement of the grounds upon which the affidavit is based. The affidavit shall contain a factual statement which alleges and includes relevant evidence of an explicit legal or ethical breach of the officeholder's sworn responsibilities. The Town Clerk shall, within twenty-four (24) hours of receipt, submit the affidavit to the Board of Registrars of Voters who shall forthwith certify thereon the number of signatures that are names of voters. A copy of the affidavit shall be entered in a record book to be kept in the office of the Town Clerk.

If the affidavit contains sufficient signatures, the Town Clerk shall deliver to the first ten voters listed upon the affidavit, blank petition forms, in such number as requested, demanding such recall, with ~~his the Town Clerk's~~ signature and official seal attached thereto. The Town Clerk shall cause to be delivered a copy of the affidavit by certified mail to the elected official's address of record whose recall is being sought within five business days of the blank petition forms being delivered. They shall be dated and addressed to the ~~Board of Selectmen~~ Select Board; shall contain the names of all persons to whom they are issued, the name of the person whose recall is sought and the grounds for recall as stated in the affidavit; and shall demand the election of a successor to the office held by such person. The recall petitions shall be returned and filed with the Town Clerk within ~~twenty one (21)~~ thirty (30) days following the date of the filing of the affidavit, signed by at least ~~ten~~ twenty percent (~~+20~~) of the voters and containing their names and addresses; provided, however, that not more than twenty ~~five~~ percent (~~250~~%) of the total number signatures may be from voters registered in any one precinct.

8.11.3 Recall Election

If the petition is certified by the Board of Registrars of Voters to be sufficient, it shall forthwith submit the petition with its certificate to the ~~Board of Selectmen~~ Select Board. Upon its receipt of the certificate, the ~~Board of Selectmen~~ Select Board shall forthwith give written notice of the petition and certificate to the Town Officer whose recall is sought, by mail, postage prepaid, to ~~his their~~ address as shown on the most recent voting list; and shall cause notice of the petition and certificate to be publicly available. If such Town Officer does not resign ~~his said~~ office within five (5) days after the date of such notice, the ~~Board of Selectmen~~ Select Board shall order an election to be held not less than 64 days or not more than 90 days from the date the ~~board of selectmen~~ Select Board orders the election; provided, however, that if any other town election is to occur not less than 70 days or not more than 90 days after the date of the certificate, the ~~Board of Selectmen~~ Select Board shall hold the recall election on the date of such other election.

If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section, and the ballots for candidates shall, notwithstanding a recall provision to the contrary, be counted to determine a successor in office.

8.11.4 Nomination of Candidates

No Town Officer whose recall is sought may be a candidate to succeed ~~himself~~ themselves in the recall election. The nomination of candidates, the publication of

the Warrant for the recall election, and the conduct of the election shall all be in accordance with the provisions of law relating to elections.

8.11.5 Propositions on Ballot

Ballots used in a recall election shall state the following propositions in the order indicated:

- For the recall of (name of Town Officer)
- Against the recall of (name of Town Officer)

Adjacent to each proposition, there shall be a place to vote for either of the said propositions. After the proposition shall appear the word "candidates" and the names of candidates nominated pursuant to Massachusetts General Laws Chapter 54, Section 42.

If a majority of the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected and the incumbent shall be deemed removed upon the qualification of ~~his- their~~ successor, who shall hold office during the unexpired term; provided, however, that, if the successor fails to qualify within five (5) days after receiving notification of ~~his their~~ election, the incumbent shall thereupon be deemed removed and the office shall be deemed vacant.

If a majority of votes cast upon the question of recall is in the negative, no candidate shall be declared elected, and the Town Officer whose recall was sought shall continue in office for the remainder of ~~his- their~~ unexpired term, subject to recall as before.

8.11.6 Repeat of Recall Petition

No recall petition shall be filed against a Town Officer subjected to a recall election and not recalled thereby, until at least six (6) months after the election at which ~~his their~~-recall was submitted to the voters.

[Amended November 15, 2004 - Article 16 and approved by vote of the Town on April 5, 2005]

8.12 Removal of an Appointed Board or Committee Member

8.12.1 The appointing authority may remove an appointed member of a board or committee with more than six (6) months remaining in the term for which ~~he was- they were~~ appointed. The process for such removal may be initiated in any of three methods:

- a** The appointing authority may, by majority vote, cause a notice of removal to be filed with the Town Clerk;
- b** A board or committee may, by majority vote, submit a written request that the appointing authority remove one of its members, specifying the grounds for such removal request in writing and causing a notice of removal to be filed with the Town Clerk;
- c** One hundred (100) or more voters may file with the Town Clerk a petition requesting the removal of a member of a board or committee, specifying the grounds for such removal. Upon certification by the Board of Registrars of Voters of a sufficient number of valid signatures, the Town Clerk shall immediately notify the appointing authority thereof.

8.12.2 Public Hearing

A public hearing shall be convened by the appointing authority not less than twenty (20) nor more than thirty (30) days after a notice, request or valid petition for

removal is filed with the Town Clerk. Not less than five (5) days (see Section 8.5) prior to such hearing, written notice thereof shall be given by the Town Clerk to the board or committee member whose removal is sought, by mail, postage prepaid, to ~~his~~-~~their~~ last known address. Not less than forty-eight (48) hours prior to the time set for the commencement of the public hearing, the board or committee member shall be entitled to file a written statement with the appointing authority responding to the reasons cited for the proposed removal. The board or committee member may be represented by counsel at the public hearing, and shall be entitled to present evidence, call witnesses and, personally or through counsel, question any witnesses appearing at the hearing.

8.12.3 Removal

The appointing authority may, by majority vote, adopt a final resolution of removal, which shall be effective upon adoption. Failure to adopt a final resolution of removal within thirty (30) days of the public hearing shall be deemed to be a disapproval of such resolution. The action of the appointing authority in removing the board or committee member shall be final, it being the intention of this provision to vest all authority and fix all responsibility for such removal in the appointing authority. The board or committee member shall continue to serve on the board or committee until a final resolution of removal has become effective.

8.13 Resignation of Town Officers

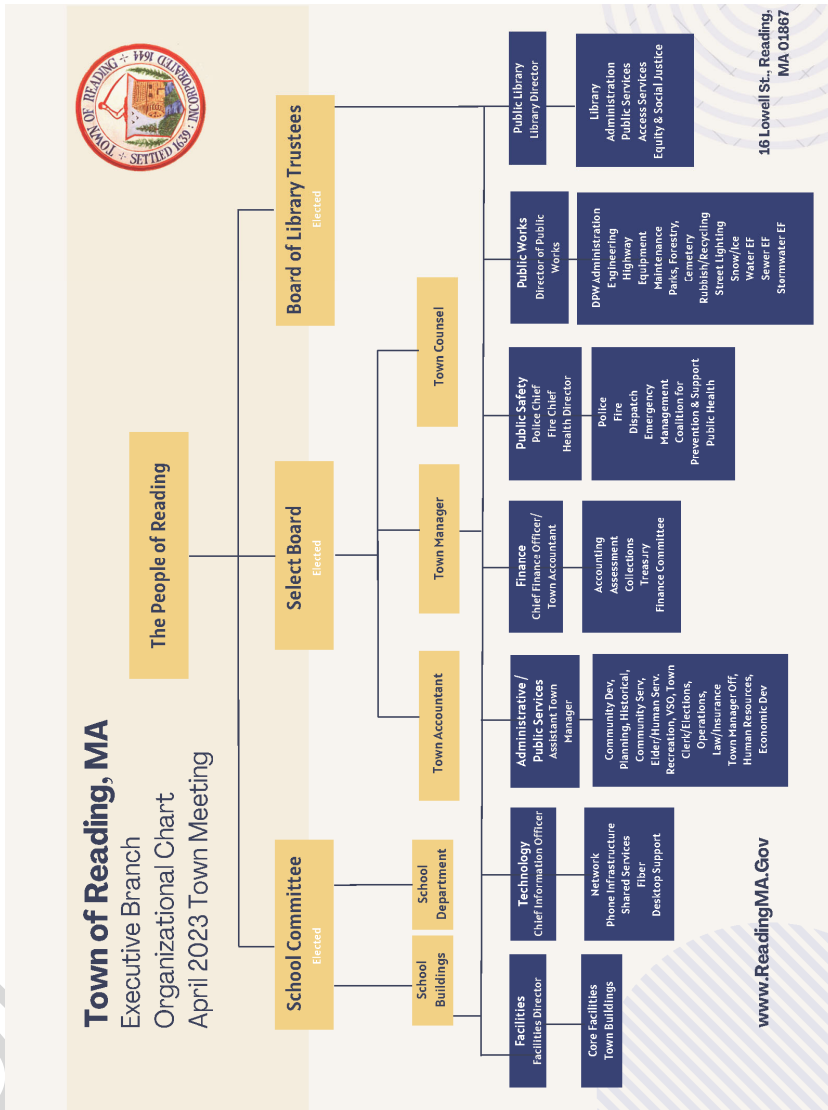
Any person holding an elective or appointive office may resign ~~his~~-~~their~~ office by filing a notice of resignation with the Town Clerk, and such resignation shall be effective immediately upon such filing, unless a time certain is specified therein when it shall take effect.

8.14 Town Seal

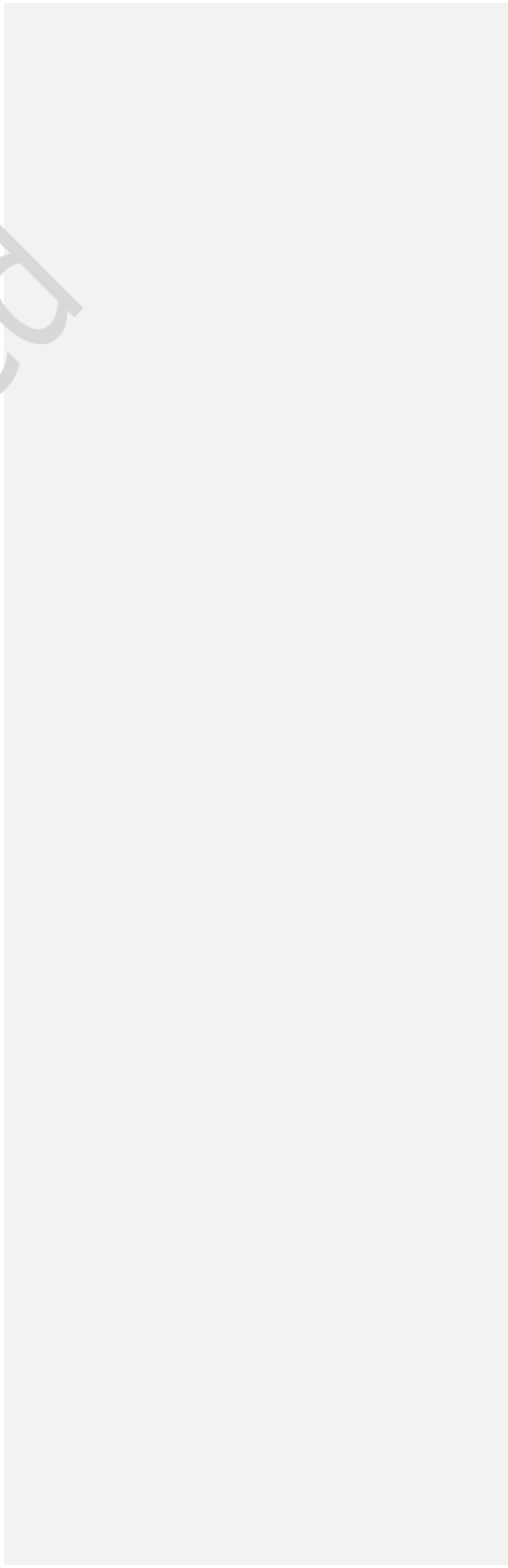
The Town Seal in existence at the time of adoption of the Charter shall continue to be the Town Seal and shall be kept in the custody of the Town Clerk. Papers or documents issued by any Town Officer or Town Agency may be attested by use of the Town Seal.

[Article 8 - Amended January 5, 2015 - Articles 7 and 8 approved by vote of the Town on April 7, 2015]

Appendix A: Table of Organization



Draft - Not Approved





Town of Reading Meeting Minutes

Board - Committee - Commission - Council:

Charter Review Committee

Date: 2024-10-23

Time: 7:00 PM

Building: Reading Town Hall

Location: Berger Room

Address: 16 Lowell Street

Session: Open Session

Purpose: General Business

Version: Draft

Attendees: **Members - Present:**

Chair Chris Haley, Jesse Arnold (remote), Jonathan Barnes, Geoff Beckwith, Alan Foulds, Chuck Robinson

Members - Not Present:

Vice Chair Phil Pacino, Andrew Grimes

Others Present:

Town Manager Matt Kraunelis, Town Counsel Ivria Fried, Town Clerk Laura Gemme, Nancy Docktor, Dave Talbot

Minutes Respectfully Submitted By: Jacquelyn LaVerde

Topics of Discussion:

This meeting was held in the Berger Conference Room of Town Hall and remotely via Zoom.

Chair Chris Haley called the meeting to order at 7:01 pm.

Roll call attendance: Jesse Arnold (remote), Jonathan Barnes, Geoff Beckwith, Chuck Robinson, Chris Haley, Alan Foulds.

Mr. Haley noted that Phil Pacino could not attend this evening, and the RMLD sections will be reviewed at the next meeting so he can participate in the discussion.

Public Comment:

Nancy Docktor of Pearl Street, and Precinct One Town Meeting Member, thanked the Committee for entertaining her suggestion to change the Board of Health to an elected board, though she feels that it calls for a larger discussion and she will be presenting an instructional motion to Town Meeting.

Dave Talbot of 75 Linden Street, and current Chair of the RMLD Board of Commissioners noted that the letter produced by Duncan & Allen was not requested by the Light Board, and they just had their first conversation about the proposed Charter changes at their public meeting last night. He requested that Town Counsel Ivria Fried attend an RMLD BOC meeting to discuss her letter responding to the Duncan & Allen letter. Ms. Fried stated that she could only attend if directed by the Town Manager. She also stated that she represents the Town, not RMLD, and could not provide the BOC with legal advice.

Review of Proposed Charter Changes with Town Counsel:

Town Counsel Ivria Fried reviewed her memo to the Committee that outlined amendments to three sections that would require a Special Act: Article 2.6 removal of Town Meeting Members, 5.1 Qualifications of the Town Manager, and 8.11 Recall Petitions.

The Committee discussed several topics including: the voter notification and election process from the last Charter Review in 2014; the process to change to make the Board of Health an elected Board going through the Attorney General's amendment process now, or through a Special Act in the future, and conditioning it on a ballot vote; and involving the RMLD BOC in Charter revision discussions.

The Committee reviewed Ms. Fried's comments on Jonathan Barnes's suggested edits to the Board/Committee removal process. Mr. Barnes clarified his intentions that an appointed Board/Committee member would have the rights afforded in section 8.12. Following discussion, Ms. Fried stated that she would provide further comments ahead of the next meeting.

Future Meeting Dates/ Future Agenda Items:

The Committee discussed and agreed to schedule the next meeting for Tuesday, November 26th. At that meeting, the Committee will continue its review of Charter changes with Town Counsel, review the RMLD section, and continue to review Jonathan Barnes's suggested revisions to the sections relating to the removal of a Board/Committee member. The Committee will also discuss the results of the Town Meeting instructional motion, and calendar of action to wrap up the review.

Approval of Minutes:

On a motion by Chuck Robinson, seconded by Jonathan Barnes, the Charter Review Committee voted 4-0-2 to approve the meeting minutes of September 23, 2024 as amended, with Geoff Beckwith and Jesse Arnold abstaining, as they were not present at the meeting.

Roll call vote: Jesse Arnold – Abstain, Jonathan Barnes – Yes, Geoff Beckwith – Abstain, Chuck Robinson – Yes, Alan Foulds – Yes, Chris Haley – Yes.

On a motion by Jonathan Barnes, seconded by Chuck Robinson, the Charter Review Committee voted 6-0-0 to adjourn at 8:34 pm.

Roll call vote: Jesse Arnold – Yes, Jonathan Barnes – Yes, Geoff Beckwith – Yes, Chuck Robinson – Yes, Alan Foulds – Yes, Chris Haley – Yes.