



Charter Subcommittee Agenda

City of Newton In City Council

Tuesday, December 4, 2018

7:00PM
Room 205

Scheduled for Discussion:

- Discussion of Reviewed Articles

Respectfully Submitted,

R. Lisle Baker, Chair

The location of this meeting is accessible and reasonable accommodations will be provided to persons with disabilities who require assistance. If you need a reasonable accommodation, please contact the City of Newton's ADA Coordinator, Jini Fairley, at least two business days in advance of the meeting: jfairley@newtonma.gov or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.



Memorandum

To: City Council
From: Councilor Baker
Re: Charter Subcommittee
Date: November 30, 2018

Dear colleagues:

The Charter Subcommittee is meeting next Tuesday, December 4, at 7 p.m. to review the work done to date with an objective to see how much can be done in time for the December 19 meeting of the Programs and Services Committee, and then, potentially, send a report from that Committee to the full Council for review and action in January. Controversial issues such as Council structure and term limits are being deferred until later. The objective will be to get to as much of a consensus document as we can for enhancements to the Charter which the Council and the Mayor can endorse as a Home Rule Petition. To make them effective requires her signature.

Note that some matters which require more time to assess or require further input from the Law and Executive Departments will be taken up later in 2019 to enable us as a Council to make some forward progress on some issues now. I realize that this schedule is more deliberate than we had hoped. At the same time, we have as a Subcommittee (Councilors Albright, Kalis, Krintzman, and me) worked to meet only when all four of us can attend so that as much as possible, anything that comes forward has the endorsement of at least the four of us. That involves finding extra meeting time, a scarce resource, as we all know. Throughout this process, our Clerk, Karyn Dean, has been an invaluable resource.

You will see the Subcommittee Reports and discussion documents in an online file for the Friday packet as they are lengthy. Of course, any Councilor is welcome to sit in on Tuesday.

Have a good weekend.
--LB

11/30/18

REDLINE

CHARTER SUBCOMMITTEE RECOMMENDATIONS

COMPARED TO

CURRENT CHARTER

HIGHLIGHTED SECTIONS NEED FURTHER DISCUSSION

Sec. 11-13, PREAMBLE

We, the people of Newton, in order to reaffirm the customary and traditional liberties of the people with respect to the conduct of our local government, adopt this charter with the expectation and intent that the charter will continue and enhance the city's strong traditions of active voter participation; ethical, transparent and responsive leadership; wise use of public resources; respect for all in the community; and an engaged populace. We expect and intend that our government will be welcoming and inclusive and will promote equality and respect for all people.

Definitions.

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

“Charter”, the city charter and any amendments to the charter made through any of the methods provided under Article LXXXIX of the Amendments to the State Constitution of the Commonwealth of Massachusetts.

“City”, the city of Newton.

“City agency”, any board, commission, committee, council, department or office of the city government; provided, however, that “city agency” shall not include a neighborhood area council as provided in article 9.

“Council member”, a councilor-by-ward or councilor-at-large.

“Emergency”, a sudden, unexpected, unforeseen happening, occurrence or condition which necessitates immediate action or response.

“Full council”, the entire authorized complement of the city council notwithstanding any vacancies which might exist.

— “Initiative measure”, a measure proposed by initiative procedures under the charter.

— “Majority vote”, a majority of those present and voting; provided, however, that a quorum of the body shall be present.

— “Measure”, an ordinance passed or which could be passed by the city council or an order, resolution, vote or other proceeding passed or which could be passed by the city council or the school committee.

— “Multiple member body”, any board, commission or committee consisting of 2 or more persons, whether elected or appointed or otherwise constituted, but not including the city council, the school committee or an *ad hoc* or advisory committee appointed by the mayor.

Commented [SC1]: Need to speak with law dept of definition

— “Referendum measure”, a measure that is protested by referendum procedures under this charter.

— “Reorganization plan”, a plan submitted by the mayor to the city council, which proposes the abolition or consolidation of 1 or more city agencies, including the reassignment of significant functions from 1 agency to another, or the establishment of 1 or more new city agencies as deemed necessary to deliver 1 or more municipal services.

— “Voters”, the registered voters of the city of Newton.

Commented [SC2]: Most definitions Not yet discussed

ARTICLE 1.
INCORPORATION; FORM OF GOVERNMENT; POWERS OF THE CITY

See. SECTION 1--1. Incorporation.

—The inhabitants of the City of Newton, within the corporate limits as now established or as hereafter may be established in the manner provided by law, shall continue to be a body corporate and politic with perpetual succession under the name "City of Newton."

See. SECTION 1--2. Form of Government.

—The administration of the fiscal, prudential, and municipal affairs of the city, with the government ~~thereof of the city~~, shall be vested in an executive branch, to consist of the mayor, and a legislative branch, to consist of the city council. The executive branch shall never exercise any legislative power, and the legislative branch shall never exercise any executive power.

See. SECTION 1--3. Powers of the City.

—Subject only to express limitations on the exercise of any power or function by a city in the constitution or statutes of the Commonwealth, it is the intent and the purpose of the charter to confer upon the city all powers it is possible to confer under the constitution and statutes of the Commonwealth, as fully and as completely as though each such power were specifically and individually enumerated ~~herein in this charter~~.

See. SECTION 1--4. Construction.

—The powers of the city under the charter shall be construed liberally in favor of the city, and the specific mention of particular powers is not intended to limit in any way the general powers of the city as stated in ~~Section section~~ 1--3.

See. SECTION 1--5. Intergovernmental Relations.

—Subject only to express ~~requirements limitations~~ of the constitution and statutes of the Commonwealth, the city may exercise any of its powers and perform any of its functions, and may participate in the financing ~~thereof of any of its powers and functions~~, jointly or in

cooperation, by contract or otherwise, with the Commonwealth or any civil division or agency ~~thereof~~of the Commonwealth or the United States government or any agency ~~thereof~~of the Unites States government.

ARTICLE 3.
EXECUTIVE BRANCH

~~See~~**SECTION 3-1. Mayor; Election; Term; Compensation.**

(a) — There shall be a mayor, who shall be elected by and from the voters ~~of the city.~~

(b) The mayor shall be the chief executive officer of the city. The mayor shall devote full time to the office and shall not hold any other elective public office, nor actively engage in any other business, occupation or profession during the term of office as mayor. The mayor shall hold office for the term of 4 years from the first ~~secular~~ day of January following the election and until the mayor's successor is qualified.

(c) — No person shall be eligible for election to the office of mayor for a fourth consecutive full term.

Commented [SC1]: This section is being deferred

(d) The mayor shall receive such salary as the city council shall determine by ordinance ~~from time to time determine~~, but no change in such salary shall take effect during the current term of the mayor in office at the time of the adoption of the ordinance making such change.

~~See~~**SECTION 3-2. Executive Powers; Enforcement of Ordinances; Assistants.**

—(a) In General — The executive and administrative powers of the city shall be vested solely in the mayor, and may be exercised by the mayor either personally or through the several city agencies under the mayor's general supervision and control. The mayor shall ~~cause~~enforce the laws, ordinances, and orders for the government of the city ~~to be enforced~~, and shall ~~cause~~keep a record of all official acts as mayor ~~to be kept~~. To aid the mayor with official mayoral duties, the mayor may appoint ~~1 or more assistants~~staff, fix their salaries and define their duties.

—(b) Citizen Assistance Officer — The mayor shall appoint a citizen assistance officer in accordance with section 3-3 and fix the officer's salary. The citizen assistance officer shall be responsible for processing citizen complaints and inquiries that are directed or referred to the officer. The citizen assistance officer shall establish and maintain procedures for the examination and appropriate referral of requests for information or assistance on any municipal matter. The citizen assistance officer shall maintain a central file, open to the public, of all inquiries and complaints together with their resolutions. The citizen assistance officer shall analyze data on citizen complaints and inquiries and shall regularly submit reports as directed by the mayor.

~~See (b) The mayor shall appoint a chief administrative officer to coordinate and direct the operations of the various departments and functions of municipal government. The chief administrative officer shall serve at the pleasure of the mayor and be appointed on the basis of having strong administrative and executive qualifications and shall be especially fitted by education, training and experience to perform the duties of the office.~~

Commented [SC2]: These sections require further discussion

SECTION 3-3. Appointments by Mayor.

~~(a)~~ ~~(a)~~ The mayor shall appoint all city officers, department heads and all volunteer members of city boards, commissions, committees and agencies for whom no other method of appointment is provided by this charter or by law.

~~(b)~~ Appointments by the mayor of city officers and department heads shall ~~become effective~~ take effect 30 days from the date of the first regularly scheduled city council meeting after notice of the proposed appointment is filed with the city clerk, unless the city council rejects the appointment within ~~said~~ those 30 days.

~~(c)~~ All officers and city agencies shall ~~reject such appointment,~~ subject to the civil service laws of the commonwealth, appoint their subordinates and employees to hold office until they are removed by the officer or city agency under whom they serve; but the mayor shall approve all appointments in the police and fire departments, and the mayor shall have the power of removal in the police and fire departments.

~~(d)~~ Appointments by the mayor of volunteer members of city boards, commissions, committees and agencies shall take effect 60 days from the date of the first regularly scheduled city council meeting after the notice of the proposed appointment is filed with the city clerk, unless the city council rejects the appointment within ~~said~~ those 60 days ~~shall reject such appointment. Rejection by the city council shall require a 2/3 vote.~~

~~(b) The mayor shall appoint a collector treasurer for a term coterminous with the mayor's term and until a successor for the position of collector treasurer is qualified unless removed by the mayor prior to the expiration of such term. The mayor shall submit the proposed appointment to the city council as soon as possible after the mayor's term commences or as soon as possible after a vacancy occurs in the collector treasurer's office. The city council must approve this appointment by majority vote of the full council within 90 days from the date on which notice of the proposed appointment is filed with the city clerk as provided in section 3-4, or the proposed appointment shall not take effect. Removal of the collector treasurer by the mayor prior to expiration of the collector treasurer's term in office shall not take effect until approved by majority vote of the full city council. The collector treasurer shall receive and pay out~~

~~all money belonging to the city according to the order of its authorized officers. No other person shall have authority to pay any bill of any municipal department. The collector treasurer shall have such other powers and perform such other duties as the mayor may prescribe in addition to such duties as may be prescribed by law.~~

~~(e) — (e) Rejection by the city council of an appointment by the mayor under (b) or (d) shall require a 2/3 vote.~~

~~(f) Appointments to multiple member bodies may include city employees only if allowed by the multiple member body's enabling language; provided that, unless otherwise required by law, such employees shall not serve as chair of the multiple member body. Unless otherwise required by law, no city employee shall serve on a multiple member body in a seat designated for a resident of the city.~~

Commented [SC3]: This section requires further discussion

~~(g) The question on rejection of any appointment made by the mayor shall not be subject to charter objection as provided in subsection (e) of section 2-9. (Acts of 1991, Chap. 50; Acts of 1992, Chap 173.)section 2-9(c).~~

~~(h) See. The mayor shall regularly, but not less frequently than annually, provide to the city clerk and the city council a listing of all vacancies on city boards and commissions, along with an indication of the appointing authority responsible for filling the vacancy. The city clerk shall make the listing available to the public electronically and otherwise.~~

SECTION 3-4. Notice of Appointment.

~~_____ In making appointments, the mayor shall sign and file with the city clerk a notice of appointment, a copy of which shall be filed on the same day with the clerk of the council.~~

~~See~~SECTION 3-5. Removal of Officials; Vacancy Notification

~~(a) — The mayor may remove any person appointed by the mayor by filing written notice thereof of the removal with the city clerk.~~

~~(b) See. If the position of a city officer or department head becomes vacant, the mayor shall notify the city clerk and the city council within 48 hours.~~

Commented [SC4]: Further discussion necessary. City officer is not a defined term.

Commented [SC5]: J. Yeo felt 48 hours is too short. 72 is recommended and needs to be further discussed.

SECTION 3-6. Temporary Appointments.

~~Whenever~~If there is a vacancy in an office appointed by the mayor ~~occurs~~, whether by reason of disability, death, resignation or removal from office for any reason, the mayor may appoint the head of another city office or agency, or a city officer or employee, or some other person to perform the duties of the office for a period not to exceed 3 months. ~~Whenever~~If a vacancy continues beyond 3 months, the mayor may make a second 3-month appointment, but no temporary appointment shall be continued beyond 6 months without the approval of the city council.

See:

SECTION 3-7. Communications to the City Council; Calling of Special Meetings of the City Council.

~~(a) Communications~~ — Within 6 weeks following the start of each fiscal year, the mayor shall submit to the city council, and make available to the public, a complete report on the financial and administrative activities of the city for the preceding fiscal year. The mayor shall ~~from time to time throughout the year~~not less frequently than semi-annually, by written communications to the city council, ~~keep it fully informed as~~provide full disclosure of municipal revenues and all information related to the financial condition and future needs of the city and shall recommend such measures to ~~the council~~ as the mayor ~~judges~~determines the needs of the city require.

Commented [SC6]: Comptroller is to speak with CFO and Chair of Finance about this section

~~(b) Calling Special Meetings~~ —The mayor may ~~at any time~~ call a special meeting of the city council by causing a notice of such meeting that specifies the matters which the mayor desires to be considered to be left at the usual place of residence of each councilor or given to in hand ~~and public~~. Public notice of the meeting ~~to~~shall be posted at least 2448 hours in advance of the time set for the meeting; or ~~for~~ such lesser period as the mayor may determine in case of an emergency, of which the mayor shall be the judge.

See, SECTION 3-8. Adoption of Measures; Mayor's Veto.

—Not sooner than 24 nor more than 96 hours after the adjournment of any meeting of the city council, the clerk of the council shall present to the mayor the record of the proceedings of the meeting and copies of all measures passed at the meeting. ~~If during the 24 hours immediately following such adjournment, a motion to reconsider is filed with the clerk of the council by any member of the city council who is entitled to make such a motion, the measure shall not be presented to the mayor but shall be presented to the city council for reconsideration at its next meeting.~~

_____, unless a city councilor has filed with the city clerk a motion to reconsider the measure under section 2-9(d). Every measure relative to the affairs of the city passed by the city council shall be presented to the mayor for the mayor's approval except: (i) any measure relating to the internal affairs of the city council; (ii) any measure relating to the election of officers whose election by the city council is authorized by law or this charter; ~~or (iii) the budget.~~ (iii) a matter exclusively within the jurisdiction of the city council; (iv) the budget; or (v) an action taken by the city council under section 10-2(d) or 10-3(a) in response to an initiative or referendum petition.

_____. Within 10 days of receipt of a measure, the mayor shall return it to the clerk of the council with or without approval, or with a veto. Upon the mayor's approval of a measure it shall be considered adopted. If a measure is vetoed, the mayor shall attach a written statement explaining the reasons for the veto. Measures vetoed by the mayor shall be considered again by the city council at a meeting ~~not~~ sooner than 7 days after receipt of the mayor's veto. If the city council, ~~notwithstanding such veto by the mayor,~~ shall again pass such vetoed measure by a 2/3 vote of the full council, it shall then be considered adopted. Every measure not approved or vetoed by the mayor shall be considered adopted 10 days after it has been presented to the mayor.

See:

SECTION 3-9. Temporary Absence from the Office of the Mayor.

_____. ~~Whenever~~ if by reason of sickness, absence from the city or ~~other cause~~ otherwise, the mayor ~~shall be~~ is unable to ~~attend to~~ perform the duties of the office of the mayor, the president of the city council ~~or the vice president of the city council in the event of the president's disability through sickness or absence~~ shall, as acting mayor, possess the powers of the mayor only in those matters ~~not admitting of delay requiring immediate attention,~~ but the acting mayor shall have no power to make permanent appointments. If neither the mayor nor the president of the city council is able to perform the duties of the office of the mayor, the vice-president of the city council shall possess the powers of acting mayor. The city council, with approval of the mayor, may provide by ordinance for the handling of certain administrative duties of the mayor by other city councilors during the temporary absence of the mayor.

During any period in which the president or the vice-president of the city council is serving as acting mayor, the acting mayor shall not serve as the presiding officer of the city council.

~~See. The restriction contained in section 3-1 relative to holding other office or actively engaging in a business, occupation or profession shall not apply to an acting mayor holding office under this section.~~

Commented [SC7]: This section requires further discussion

SECTION 3-10. Vacancy in the Office of the Mayor.

(a) ~~—If a vacancy occurs in the office of the mayor, by death, resignation, removal from office, failure to elect or otherwise at any time preceding the last 9 calendar months of the term for which the mayor was elected, the city council shall forthwith call, at its next regular meeting, introduce a measure calling for a special election to fill the vacancy for the remainder of the unexpired term— and shall, within 30 days, act on that measure. The special election shall be held within 150 days and, if a preliminary election is required under section 8-3, the preliminary election shall be held within 100 days of the calling of the election.~~

(b) ~~If a vacancy occurs in the office of the mayor during the last 9 calendar months of the term for which the mayor was elected, the clerk of the council shall forthwith call a special meeting of the city council and the city council shall by majority vote of the full council elect 1 of its members as acting mayor for the remainder of the unexpired term. If the city council fails to elect an acting mayor as aforesaid within 30 days of the date of the meeting called by the clerk of the council, the president of the city council shall become acting mayor, shall exercise all the rights and powers of the mayor and shall be sworn to the faithful performance of the duties of the office. Upon the election and qualification of any member of the city council as acting mayor under this section, a vacancy shall exist in the member's council seat. The president of the city council shall serve as the acting mayor until the next election for mayor is held. If the city council president is unable or unwilling to serve, the vice president of the city council shall serve as mayor. If both the council president and the council vice president are unable or unwilling to serve, the council shall elect from among its membership a councilor to serve as the acting mayor.~~

(c) ~~—The restriction contained in section 3-1 relative to holding other office or actively engaging in a business, occupation or profession shall not apply to an acting mayor holding office under this section. Upon the certification of the results from the next election, the person elected to be mayor shall immediately be sworn and begin serving as mayor and the new mayor shall, in addition to an acting mayor holding office under this section, serve for the balance of the then-unexpired term.~~

~~The mayor's removal from residency within the city shall create a vacancy in the office. (Referendum of 11-04-75.)~~

Commented [SC8]: This section requires further discussion

ARTICLE 4.
SCHOOL COMMITTEE

See SECTION 4-1. Composition; Eligibility; Election and Term.

———(a) Composition —There shall be a school committee of 9 members, ~~which shall exercise control and management; 8 of the public schools of the city. Eight of these members, who~~ whom shall be known as school committee members; The school committee members shall be nominated and elected by the voters ~~at large of the city,~~ 1 school committee member to be elected from each ~~of the 8 wards~~ ward of the city. The mayor shall serve, *ex officio*, as a member of the school committee with full power to vote. The school committee shall be the judge of the election and qualification of its members.

———(b) Eligibility —Only voters shall be eligible to hold the office of school committee member. A candidate for the office of school committee member shall be a resident of the ward from which the candidate seeks election as of ~~the date that the election commission makes available blank forms for the nomination of candidates for office. In order to hold the office of school committee member, a candidate shall have continuously been a resident of the ward from which the candidate is elected from the date that the election commission made such blank forms available until and including the first day of the term for which the candidate is elected. A member of the school committee shall, notwithstanding the member's removal from 1 ward of the city to another,~~ June 1 of the year in which a regular election is held.

If member of the school committee moves to a different ward, the member shall continue to serve and to perform the member's official duties during the member's term of office. The removal from residency within the city by any school committee member shall create a vacancy in such office.

———No member of the school committee shall hold any other public elected office.

(c) Election and Term —The ~~term~~ term of each school committee ~~members~~ member shall be 2 years beginning on the first ~~secular~~ day of January after ~~their~~ the member's election and shall continue until ~~their successors are~~ successor is qualified. No person shall be eligible for election to the school committee for a fifth consecutive full term. ~~(Referendum of 11-04-75; Acts of 2002, Chap. 368.)~~

Sec.(d) Compensation — School committee members shall receive such salary as the city council shall determine by ordinance, but no change in such salary shall take effect during the current term of the school committee in office at the time of the adoption of the ordinance making such change.

Subject to appropriation and to prior authorization by the school committee, school committee members shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their duties.

SECTION 4-2. Organization; Quorum; Rules of Procedure; Posting of Policies

———(a) Organization—~~After~~ Upon the mayor ~~elect~~ and ~~a majority of the~~ school committee members ~~elect have been~~ being sworn, ~~the school committee shall be called together by~~ into office, the mayor ~~who~~ shall preside. The convene the school committee, which shall ~~then~~ elect a chair and vice-chair from among its members ~~a chair and a~~. The vice-chair, ~~who~~ shall act as chair during the absence or disability of the chair. The school committee shall ~~also elect~~ appoint a secretary who shall not be 1 of its members. The chair, vice-chair and secretary shall serve at the pleasure of the school committee.

———(b) Quorum—~~A~~ The presence of a majority of members of the school committee then in office shall constitute a quorum ~~but a smaller number may meet and adjourn from time to time for~~ the transaction of business.

———(c) Rules of Procedure—The school committee shall ~~from time to time~~ establish and periodically update rules for its proceedings.

———Except as otherwise authorized by ~~sections 18 to 25, inclusive, of chapter 30A of~~ the General Laws, all sessions of the school committee shall be open to the public ~~and press~~. A full, accurate and up-to-date record of the proceedings of the school committee and policies adopted by the school committee shall be kept and ~~shall be open;~~

- (i) made electronically available to ~~inspection by~~ the public. ~~It~~ in a timely manner;
- (ii) shall include a record of each roll call vote; and

(iii) See, shall be available in such other forms and venues as the school committee determines.

SECTION 4-3. General Powers and Duties.

—The school committee shall aim for educational excellence in accordance with this charter and the Massachusetts General Laws. The school committee shall have all the powers and duties which school committees may have under the General Laws and may have such additional powers and duties as provided by the city council ~~may by ordinance from time to time assign or this charter.~~ The powers of the school committee shall include, but not be limited to, the power to: ~~(i) appoint a~~

- (i) establish a mission statement for the Newton Public Schools and policies that align with that statement;
- (ii) select, evaluate and remove the superintendent; ~~(ii) appoint~~
- (iii) adopt all ~~other officers and employees connected with the schools, fix their compensation and define their duties, make~~ reasonable rules ~~concerning their tenure of office and discharge them at its pleasure;~~ ~~(iii) furnish~~ and regulations for the management of the public school system;
- (iv) adopt and oversee the administration of an annual operating budget for the school department, as provided in the city's budget;
- (v) oversee all school buildings and grounds including, but not limited to, furnishing all school buildings with proper fixtures, furnishings and equipment; and ~~(iv) provide~~ providing ordinary maintenance and repairs on all school buildings up to a maximum expenditure equal to 2 per cent of the school department's operating budget adopted for the preceding fiscal year; provided, however, that sums in excess of the maximum for the provision of ordinary maintenance and repairs may be appropriated by the mayor and the city council and no sums appropriated to accounts for ordinary maintenance and repairs shall be transferred without a 2/3 vote of the city council. ~~(Referendum;~~
- (vi) upon the recommendation of the superintendent, establish and appoint associate or assistant superintendents who shall report to the superintendent; and
- (vii) serve as the employer representative for all employment agreements and labor contracts of employees under the jurisdiction of ~~11-04-75;~~ the Newton Public Schools.

See SECTION 4-4. New School Buildings.

—Whenever in the opinion of the school committee determines that a new schoolhouseschool building or a major renovation is required ~~or material alterations are needed, it,~~ the school committee

shall send a written communication to the city council ~~stating the locality and the nature~~describing the determination. The city council shall not approve a new building or a major renovation unless the school committee has approved the educational specifications of the new building or major renovation that align with the best practices established by the commonwealth.

This section shall also apply to a new building or renovation on property that the city acquires to address the educational needs of the ~~further provisions for schools which are needed; provided, however, that no schoolhouse shall be located, built or materially altered until the school committee shall have been consulted as to the proposed location and plans and had full opportunity to set forth its requirements~~community.

See. SECTION 4-5. Prohibitions.

_____ No former school committee member shall ~~hold~~be appointed to any compensated ~~appointive~~ city office or ~~city~~ employment until 1 year after the expiration of the member's service on the school committee. This ~~provision~~section shall not prohibit a former city employee or city officer from resuming the ~~duties~~same position of the city officer or city employee ~~at~~within 1 year of the conclusion of service on the school committee.

See. SECTION 4-6. Filling of Vacancies.

_____ (a) If ~~there be~~ a vacancy occurs, by failure to elect, removal from the city, death, resignation or otherwise, on the school committee ~~within~~at any time before the ~~first 15 calendar~~final 9 months of the term for which ~~the~~ school committee ~~members are~~member was elected, the city council shall ~~forthwith call~~at its next regular meeting introduce a measure calling for a special election to fill the vacancy. for the remainder of the unexpired term and shall, within 30 days, act on that measure. The election shall be by the voters of the ~~whole~~ city.

_____ (b) If ~~the~~a vacancy ~~shall occur after 15 calendar~~occurs within the final 9 months of the term for which a school committee ~~members are~~member is elected, no special election shall be held to fill the vacancy and the person elected at the next regular city election to the seat in which the vacancy exists shall immediately be sworn and shall, in addition to the term for which the member was elected, serve for the balance of the then-unexpired term.

(c) A candidate for the office of school committee member shall be a resident of the ward in which there is a vacancy as of the date on which the city council calls the special election.

ARTICLE 5.
FINANCIAL PROCEDURES

~~See~~ **SECTION 5-1. Financial Condition of the City**

~~The mayor shall annually prepare a forecast of city revenues, expenditures and the general financial condition of the city. The forecast shall cover at least 5 years and shall include all funds subject to appropriation. The forecast shall also include, but need not be limited to, an identification of factors with significant impact on the financial condition of the city, revenue and expenditure trends, potential sources of new or expanded revenues and long or short-term actions which may enhance the financial condition of the city. The mayor shall submit the forecast to the city council at least 6 months prior to the mayor's submission of the next fiscal year's operating budget and shall make the forecast available to the public for inspection.~~

SECTION 5-2. Submission of Budget; Budget Message.

—— Within the period prescribed by state statute, the mayor shall submit to the city council a proposed budget for the ensuing fiscal year, which shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year, an accompanying budget message and supporting documents.

—— The mayor's message shall explain the budget for all city agencies both in fiscal terms and in terms of work programs. It shall: (i) outline the proposed financial policies of the city for the ensuing fiscal year; (ii) describe the important features of the budget; (iii) indicate any major changes from the current fiscal year in financial policies, expenditures, and revenues and the reasons for such changes; (iv) summarize the city's debt position; and (v) include such other material as the mayor deems desirable or the city council may reasonably require.

~~See~~ ~~The budget shall include funding for legal assistance to the city council and an independent audit of all city accounts. The amount of funding for legal assistance to the city council may be amended by ordinance; provided however, that such an ordinance shall not take effect until the fiscal year following its adoption.~~

SECTION 5-23. Action on the Budget.

Commented [SC1]: The subcommittee would like to hear the opinion of the City Solicitor.

—The city council shall adopt the budget, with or without amendments, within 45 days following the day the budget is received by the city council. In amending the budget, the city council may delete or decrease any programs or amounts, except expenditures required by law or for debt service, but it may not increase any programs or amounts.

—If the city council fails to take action with respect to any item in the budget within 45 days after receipt of the budget, such amount shall, without any action by the city council, become a part of the appropriations for the year and be available for the purposes specified.

See **SECTION 5-34. Capital Inventory and Capital Improvement Program.**

~~(a) Submission—The mayor shall prepare and submit to the~~ and city council a 5-year capital improvement program at least 6 months prior to receipt ~~shall be active stewards of the next fiscal year's operating budget.~~ city's physical assets.

~~(b) Contents—The capital improvement program~~ (b) Capital Inventory — The mayor shall establish and update not less frequently than annually, an inventory of significant capital assets, such as: buildings; infrastructure (water, sewer, storm water, and road systems); moveable equipment; and such other property as determined by ordinance. The city council shall, by ordinance, establish the requirements of the inventory, such as: age; condition; maintenance and repair history; remaining useful life; and other features the city council deems appropriate.

(c) Capital Improvement Program— The mayor shall create a capital improvement program, which shall include: (i) a clear summary of its contents; (ii) a list of all capital improvements proposed to be undertaken during the next 5 fiscal years with supporting data and rationale; (iii) cost estimates, method of financing and recommended time schedules; and (iv) the estimated annual cost of operating and maintaining the facilities capital assets included. The above information capital improvement program shall be revised and extended each year annually.

~~(e) Public Hearing—The city council shall publish in 1 or more newspapers of general circulation~~ (d) Submission — The mayor shall submit to the city council the general summary of inventory and the 5-year capital improvement program and a notice stating: (i) at least 6 months prior to the times and places where copies mayor's submission of the operating budget for the next fiscal year.

~~(e) Public Hearing—The city council shall make the proposed capital improvement program are available for inspection by to the public; and (ii) the date, time and place, not less than 2 weeks after the publication, when a and shall hold at least 1 public hearing, in accordance with state law, on the capital improvement program will be held by the city council.~~

~~(d)(f) Adoption —After the public hearing, concurrently with the passage of the next fiscal year's budget, the city council may amend and shall, by resolution, adopt the capital improvement program with or without amendments. (Referendum of 11-04-75).~~

~~See (g) Annual Report—The mayor shall annually report on the city's progress regarding the capital improvement program.~~

Commented [SC2]: This section needs further review, especially capital inventory requirement

SECTION 5-4-5. Contracts:

~~—All contracts entered into for or in behalf of the city by any officer or city agency shall be subject to the approval of the mayor, unless otherwise provided by law.~~

SECTION 5-6. Independent Audit

~~The city council shall annually provide for an independent audit of all city funds to be conducted by a certified public accountant in accordance with generally accepted accounting principles. The city council shall, by ordinance, establish procedures for oversight and administration of the annual audit including: (i) method of selection of an independent auditor; (ii) the scope of the audit; and (iii) receipt of the report and any recommendations from the auditor, including recommendations regarding internal controls.~~

Commented [SC3]: This section was not discussed

ARTICLE 6.
ADMINISTRATIVE DEPARTMENTS

~~See SECTION 6-1. Reorganization Plans by City Council.~~

~~—Except as otherwise provided by law or this charter, the city council may by ordinance: (i) reorganize, consolidate or abolish any existing city agency in whole or in part; (ii) establish new city agencies; and (iii) prescribe the functions of any city agencies. All city agencies under the direction and supervision of the mayor shall be headed and administered by officers appointed by the mayor.~~

~~Sec. 6 2. Reorganization Plans by Mayor.~~

—(a) The mayor ~~may, from time to time,~~ prepare and submit to the city council reorganization plans which may, subject to applicable law and this charter, reorganize, consolidate or abolish any city agency, in whole or in part, or establish new city agencies as the mayor considers necessary or expedient. ~~The reorganization plan shall be accompanied by an explanatory memo which shall include: __ (i) reference to any ordinances to be repealed or modified; and (ii) a summary of proposed ordinance language changes to be put into effect by the plan.~~

—(b) Every reorganization plan shall, upon receipt by the ~~clerk of the city~~ council, be referred to an appropriate committee of the city council which shall, not more than 30 days ~~later after receipt of the plan,~~ hold a public hearing on the matter and shall, not later than the second regular meeting of the city council following the hearing, report either that it approves or disapproves of the plan. A reorganization plan shall become effective 90 days after the date it is received by the city council unless the city council has prior to that date voted to disapprove the reorganization plan or unless a later effective date is specified in the plan. A reorganization plan presented by the mayor to the city council under this section ~~may shall~~ not be amended by the city council but shall either be approved or rejected as submitted ~~and~~. Reorganization plans shall not be subject to charter objection as provided in ~~subsection (c) of section 2-9. (Referendum of 11-04-75; Acts of 1992, Chap 174.)~~(c).

Commented [SC1]: Find history of City Council and Mayor being given reorg rights

~~See (c) The mayor shall provide notice, not later than March 1, to the city council of any reorganization plan reasonably expected to affect the budget for the ensuing fiscal year.~~

SECTION 6-3-2. Publication of Reorganization Plan.

~~As~~ The city clerk shall maintain an up-to-date record of any reorganization plan adopted under this article ~~shall be kept on file in the office of the city clerk~~ and copies of all such plans shall be included as an appendix in any publication of the ordinances of the city.

**ARTICLE 7.
PLANNING**

~~See~~ **SECTION 7-1. Department of Planning and Development.**

~~—There shall be a Department of Planning and Development.~~

~~See~~ There shall be a department of planning and development and a planning and development board. The membership and term of office of the planning and development board shall be determined by ordinance. The mayor shall appoint the members of the board subject to council confirmation as provided in section 3-3(a).

SECTION 7-2. Comprehensive Plan.

—(a) **Content**—There shall be a comprehensive plan ~~setting forth in graphic and textual form policies to govern the future physical development of the entire city. The containing the plan shall cover the entire city and all of its functions and services or shall consist of a combination~~ elements described in section 81D of plans governing specific functions and chapter 41 of the General Laws; provided however, that the city may also undertake planning activities relating to particular services or specific geographic areas within the city.

Commented [SC1]: Check with Law Dept about control: MGL or Special Act

—(b) **Adoption**— Within 2 years of the swearing in of a new mayor, the mayor shall submit to the city council reaffirmation of the comprehensive plan or a modification of the plan, including the recommendations of the planning and development board, for the city council's approval with or without amendments.

The mayor may submit to the city council a new comprehensive plan or modifications to the comprehensive plan as the mayor deems necessary.

Upon receipt ~~from the mayor~~ of a proposed new comprehensive plan, or a proposed modification of the ~~existing plan~~, the city council shall refer the proposal to the planning and development board which shall, within a time specified by the city council, report its recommendations ~~on the proposal. After receipt of comprehensive plan, and~~ the recommendations of the planning and development board, the city council shall hold at least 1 public hearing on the proposed ~~comprehensive plan or the proposed modification of the~~ or new comprehensive plan and shall, by resolution, adopt the ~~same~~ new comprehensive plan or modification of the comprehensive plan with or without amendments. ~~The city council may thereafter from time to time modify the comprehensive plan.~~

~~——(c) Effect—The comprehensive plan shall serve as a guide to all future action by the city council concerning land use and development regulations, urban renewal programs and expenditures for capital improvements.~~

~~**See SECTION 7-3. Implementation of the Comprehensive Plan.**~~

~~——(a) Land Use and Development Regulations —In accordance with the General Laws, the city council may by ordinance adopt land use and development regulations including, but not limited to, an official map and zoning regulations, reflecting the guidance of the city's comprehensive plan.~~

~~——(b) Urban Renewal —In accordance with the General Laws, the city council may by ordinance provide for redevelopment, rehabilitation, conservation and renewal programs for the alleviation or prevention of slums, obsolescence, blight or other conditions or deterioration.~~

~~——(c) Action by the City Council — Before acting on, and the Planning and Development Board — If any proposed ordinance concerning land use and development regulations, urban renewal or expenditures for capital improvements, where the ordinance involves a matter covered by addressed in the comprehensive plan concerning land use, development regulations, or capital improvement expenditures, the city council shall first refer the proposal-proposed ordinance to the planning and development board which. The board shall, within a time specified by the city council and prior to the public hearing on the proposed ordinance, report in writing its recommendations on the proposal. Upon adopting any such ordinance, the city council shall make findings and report on the relationship between the ordinance and the comprehensive plan and the comprehensive plan shall be deemed to be amended in accordance with the findings and report.~~

~~in writing to the city council on the proposed ordinance in accordance with section 5 of chapter 40A of the General Laws.~~

ARTICLE 8.
NOMINATIONS AND ELECTIONS

~~See~~ **SECTION 8-1. Nonpartisan General Provisions for All Elections.**

~~—All elections~~ (a) Elections of City officers shall be nonpartisan, and election ballots or ballot labels for such officers shall be printed without any party mark, emblem, or designation whatsoever.

~~See~~ (b) Signature Requirements —The number of signatures of voters in the city required to place the name of a candidate on the official ballot to be used at an election shall be:

(1) for mayor: 400 signatures; and

(2) for councilor-by-ward, councilor-at-large or school committee member: 150 signatures.

(c) Ballot Position —The election commission shall randomly draw lots to determine the order in which names of candidates shall appear on the ballot for each office.

(d) Information to Voters —The name and street address of each candidate, but not any other information regarding the candidate, shall appear on the ballot at any city election; provided, however, that if the candidate in a regular city election is an incumbent of the office to which the candidate seeks election, the phrase "Candidate for Re-election" shall appear beside the candidate's name.

SECTION 8-2. Regular City Elections.

~~—(a) Date —~~ The regular city election shall be held on the first Tuesday following the first Monday in November in each odd-numbered year.

~~—(b) Ballot Position —The order in which names of candidates appear on the ballot for each office in a regular city election shall be determined by a drawing by lot conducted by the election commission.~~

~~—(c) Information to Voters —If the candidate in a regular city election is an incumbent of the office to which the candidate seeks election, against the candidate's name shall appear the phrase "Candidate for Re election".~~

Commented [SC1]: If composition of City Council changes, this may need revision

~~See~~ **SECTION 8-3. Preliminary Elections: Special Elections.**

~~—(a) Date—For each regular city election and any special election called to fill a vacancy in the office of mayor, there shall be held and for each regular city election, a preliminary election for the purpose of nominating shall be held to nominate candidates.— The city council shall set the date for each preliminary election. (Acts of 2008, chapter 152; Acts of 2015, chapter 26)~~

~~—(b) Signature Requirements—The number of signatures of voters required to place the name of a candidate on the official ballot to be used at a preliminary election, or any special election for an office other than mayor, shall be as follows: for the office of mayor, four hundred signatures; for councilor at large, one hundred fifty signatures; for ward alderman, fifty signatures from the ward in which the election is to be held; for school committee member, one hundred fifty signatures.~~

~~—(c) Ballot Position—The order in which names of candidates appear on the ballot for each office shall be determined by a drawing by lot conducted by the election commission.~~

~~—(d) Information to Voters—Every petition requesting the placement of the name of a candidate for nomination on the official ballot for use at a preliminary election, or for use at any special election for an office other than mayor, may state in not more than eight words the elected public offices which the candidate for nomination holds or has held. Against the name of any such candidate there shall be printed on the official ballot for a preliminary election, or any special election for an office other than mayor, the statement contained in the petition.~~

~~—(e) Provide (b) Conditions Making Preliminary Election Unnecessary—If at the expiration of the time for filing petitions for nomination of candidates to be voted for any preliminary election, not more than twice as many such petitions have been filed for an office as are to be elected to such office, the candidates whose petitions have thus been filed shall be deemed to have been considered nominated to said office, and their names shall be voted on for such office at the succeeding regular or special election, as the case may be, and the Election Commission election commission shall not print said names upon the ballot to be used at said preliminary election and no other nomination to said office shall be made. If in consequence it shall appear that if no names are to be printed upon the official ballot to be used at any preliminary election in any ward or wards of the city, no preliminary election shall be held in any such ward or wards.~~

~~See~~ **SECTION 8-4. Special Elections.**

~~Special elections.~~ The city council shall set the date for a special election to fill the office of councilor, ~~mayor-by-ward, councilor-at-large,~~ or school committee member as provided in sections 2-5, ~~3-10~~ and 4-6; provided that the date shall be held within 120 days following after the date on which the election is called. ~~Persons.~~ No special election under section 2-5, 3-10 or 4-6 shall be held during the month of July or August and any election that would otherwise be scheduled to take place in July or August shall be held at the earliest possible date in September. A person elected at ~~the election~~ a special election shall immediately be sworn and assume ~~their~~ that office.

Commented [SC2]: This needs to be reviewed to be sure the allotted time constraints will not cause any issues.

~~See.~~
SECTION 8-5. Wards.

The territory of the city shall be divided into ~~eight~~ 8 wards.

~~See.~~ **SECTION 8-6. Application of State Laws.**

Except as expressly provided in the charter and authorized by state law, ~~all~~ city elections shall be governed by the laws of the ~~Commonwealth~~ commonwealth relating to the composition, powers, and duties of the election commission, the right to vote, the registration of voters, the nomination of candidates, the conduct of preliminary, regular, and special elections, the submission of charter amendments and other propositions, the counting of votes and the declaration of results.

SECTION 8-7. Certificate of Election and Appointment

Every person who is elected, or appointed by the mayor, city council or school committee to an office, shall receive a certificate of the election or appointment from the city clerk. Except as otherwise provided by law, before performing any act under the election or appointment, the person shall take and subscribe to an oath to qualify the person to enter upon the duties of the office. A record of the taking of the oath shall be made by the city clerk. Any oath required by this section may be administered by the mayor or any officer authorized by law to administer oaths. Records of transactions of all officers and boards shall be properly kept and shall, subject to such reasonable restrictions as the city council may prescribe, be open to the inspection of the public.

ARTICLE 10-
FREE PETITION; INITIATIVE; AND REFERENDUM

SeeSECTION 10-1. Free Petition

(a) Individual, Discretionary Petitions.

The city council and the school committee shall receive all petitions addressed to either of them and may ~~in their discretion~~ take such action with regard to the petitions as they deem necessary and advisable.

Sec. 10-2.(b) Group Petitions; Action Required.

~~The city council to City Council or the school committee~~ School Committee

If 100 or more voters sign a petition seeking the passage of a measure, and deliver the petition to the city council or the school committee, the city council or school committee shall hold a public hearing and act with respect to every petition which is addressed to it, which is signed by at least 50 voters, and which seeks the passage of a measure, the petition. The hearing shall be held by the city council or the school committee, or, in either case, by a committee or ~~subcommittee of either the city council or school committee and the action by sub-committee of~~ the city council or school committee ~~shall be taken,~~ not later than 3 months after the petition is filed with the ~~city clerk, clerk of the council or the secretary of the school committee.~~ Hearings on 2 or more petitions filed under this section may be held at the same time and place ~~and the city.~~ The clerk of the council or the secretary of the school committee shall mail notice of the hearing to the first 50 certified signers, 10 persons whose names appear first on each the petition at least 48 hours 7 days before the hearing. Notice, by publication, of all such hearings shall be at public expense. (Referendum of 11-04-75.)

SeeSECTION 10-32. Initiative; Repeat Matters; Measures

~~—Except as otherwise provided by law or this charter, a measure may be proposed to the city council or the school committee in accordance with this article, but no measure which is substantially the same as any other measure submitted or referred to the voters and disapproved by them within 2 years or which would have the effect of repealing any measure so submitted or referred and approved by the voters within 2 years may be proposed by initiative procedures.~~

~~Sec. 10-4. Initiative: (a) Commencement of Proceedings; Referral to City Solicitor.~~

~~_____~~ Initiative procedures shall be started by the filing of an initiative petition with the ~~city clerk, clerk of the council or the secretary of the school committee.~~ The petition shall be addressed to the city council or ~~to~~ the school committee, shall contain a request for ~~the~~ passage of a particular measure ~~set forth, which shall appear in full~~ in the petition, and shall be signed by at least ~~50~~200 voters. ~~The petition shall be accompanied by an affidavit signed by 10 voters and containing each voter's residential address stating those voters will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form.~~

~~(b) Referral to City Solicitor — If the city clerk determines~~ election commissioners determine that at least ~~50~~the number of the filers ~~are~~signatures of voters, ~~the city clerk shall transmit~~ is sufficient, the petition shall be delivered to the clerk of the council or the secretary of the school committee, who shall, immediately following receipt of such certification, deliver a copy of the petition to the city solicitor.

~~Sec. 10-5. Initiative: Opinion of Solicitor.~~

~~_____~~ ~~Within 15 days after receipt of the petition, the~~ The city solicitor shall, ~~within 15 days following receipt of a copy of the petition,~~ advise the city ~~clerk council or the school committee,~~ in writing, whether the measure may ~~lawfully~~ be proposed by ~~the~~ initiative ~~procedures~~process and whether ~~in its present form~~ it may ~~be~~ lawfully ~~be passed~~adopted by the city council or the school committee. If the opinion of the city solicitor is that the measure ~~may~~is not ~~lawfully be passed~~in proper form, the ~~city solicitor~~reply shall state the ~~reason or~~reasons for ~~the~~such opinion ~~in the reply.~~ The city clerk shall furnish a ~~copy of the city solicitor's opinion~~ of the city solicitor shall also ~~be mailed to the person whose name first appears~~those identified on the ~~initiative petition~~affidavit as ~~the petitioners committee.~~

~~Sec. 10-6. Initiative: (c) Additional Signatures.~~

~~_____~~ The signatures of additional voters who support ~~— If the city solicitor determines that the~~ petition ~~is~~ in addition to those in Section 10-4, may be gathered on forms prepared in accordance with

~~Section 10-13. The separate pages bearing additional signatures a proper form, the city clerk shall be filed at one time with the city clerk not more than six months after the filing of the original provide blank petition with the city clerk forms within 10 days for the use of subsequent signers and shall be deemed to be part print at the top of each blank form a fair, concise summary of the initiative petition. Such additional signatures proposed measure, as determined by the city solicitor, together with those the names and addresses of the first fifty filers members of the petitioners committee. The city clerk shall notify the petitioners committee that the blank petition forms are issued. Within 180 days following the date of the notice, the petition shall be returned and filed with the city clerk signed by at least equal in number to ten 10 per cent of the total number of voters registered to vote at voters as of the date of the most recent preceding regular city election.~~

~~Sec. 10-7. Initiative; Validation of Signatures; Action on Petition.~~

~~— The sufficiency of the number of signatures to an initiative petition shall be determined in accordance with section 10-14. Within 30 days after an initiative petition is presented to the city council or the school committee, the city council or the school committee shall act with respect Signatures to an initiative petition need not all be on 1 paper, but all papers pertaining to any 1 measure shall be fastened together and shall be filed as a single instrument, with the endorsement on it of the name and address of the person designated as filing the papers. The street and number of the residence of each signer shall appear with each signature on the petition.~~

~~Within 10 days following the filing of the petition, the election commissioners shall determine the number of voters that signed the petition and the percentage represented by that number of the total number of voters as of the date of the most recent regular city election. The election commissioners shall attach to the petition a certificate showing the results of its examination and shall return the petition to the clerk of the council or the secretary of the school committee, depending on how the petition is addressed. A copy of the election commissioners' certificate shall also be mailed to the members of the petitioners committee.~~

~~(d) Action on Petitions — Within 30 days following the date a petition and certificate has been returned to the initiative measure by passing it clerk of the council or the secretary of the school committee by the election commissioners, the city council or the school committee shall pass the measure without change, by rejecting it or by passing some other pass a measure which is stated to be in lieu of the initiative measure, or reject the measure. The passage of a measure which is in lieu of an initiative measure shall be deemed to be a rejection of the initiative measure. If the city council or the school committee fails to act with respect to the any initiative measure as required by this section which is presented to it within 30 days after presentation following the date it~~

~~is returned to either the council or school committee by the election commissioners, the measure shall be deemed to have been rejected on the such thirtieth day ~~after presentation.~~ If an initiative measure is rejected, the ~~city clerk of the council or the secretary of the school committee~~ shall promptly give ~~written~~ notice of that fact to the ~~first 10 members of the~~ petitioners-
committee by certified mail. Initiative measures shall not be subject to the charter objection ~~as provided in subsection (e) of section 2-9-(c).~~~~

~~Sec. 10-8. Initiative: (e) Supplemental Petitions; Submission to Voters.~~

~~— Within 45 days ~~after notice of~~ following the ~~rejection of~~ date an initiative ~~measure~~ petition has been ~~given by the city clerk~~ ~~rejected~~, a supplemental initiative petition ~~addressed to~~ may be filed with the ~~city clerk of the council or the secretary of the school committee~~ ~~on forms prepared in accordance with section 10-13~~ may be filed with the city clerk. The supplemental initiative petition shall be signed by a number of additional voters which is at least equal to 5 ~~per cent~~ percent of the total number of voters ~~registered to vote~~ as of the date of the most recent ~~preceding~~ regular city election. ~~The sufficiency of the number of signatures to a supplemental initiative petition shall be determined in accordance with section 10-14.~~~~

~~(f) Scheduling of Election — If the number of signatures to ~~a such~~ supplemental ~~initiative~~ petition is found to be sufficient, ~~by the city council shall provide~~ election commissioners for ~~submission of the initiative measure to the voters in accordance with section 10-15~~, petitions submitted to the school committee, the city clerk shall notify both the secretary of the school committee and the city council. For petitions submitted to the council, the clerk shall notify the city council. For either a petition addressed to the school committee or the city council, the city council shall call a special election to be held on a date fixed by it not less than 45 nor more than 90 days following the date of the certificate of the city clerk that a sufficient number of voters have signed the supplemental initiative petition and shall submit the proposed measure, without alteration, to the voters for determination; provided, however, if any other city election is to be held within 180 days following the date of said certificate, the city council may omit the calling of such special election and cause said question to appear on the municipal election ballot at such approaching election for determination by the voters.~~

~~Sec. 10-9. Referendum: Right to Refer to Registered Voters.~~

~~—Except as otherwise provided by law or this charter, any measure passed by the city council or the school committee, including a measure proposed by initiative procedures and passed by the city council or the school committee, may be protested and referred to the voters in accordance with this article.~~

~~Sec. 10-10. Referendum: Commencement of Proceedings.~~

~~—Referendum procedures shall be started by the filing of a referendum petition with the city clerk within 20 days after the final passage by the city council or the school committee of the measure to which the petition relates. The petition shall be addressed to the city council or the school committee on forms prepared in accordance with section 10-13 and shall be signed by a number of voters which is at least equal to 5 per cent of the total number of voters registered to vote at the most recent preceding regular city election. Whenever referendum procedures are started in accordance with this section, the referendum measure shall thereupon be suspended from taking effect and such suspension shall remain in force until: (i) it is determined that there is an insufficient number of signatures to the petition; (ii) the referendum measure has been repealed or rescinded by the city council or the school committee; or (iii) the question of whether the measure should take effect has been determined by the voters. (Referendum of 11-04-75.)~~

~~Sec. 10-11. Referendum: Validation of Signatures; Action on Petition.~~

~~—The sufficiency of the number of signatures to a referendum petition shall be determined in accordance with section 10-14. Within 30 days after a referendum petition is presented to the city council, it shall reconsider the referendum measure and shall repeal or rescind it or the city council shall provide for referring the matter to the voters in accordance with section 10-15. Within 30 days after a referendum petition is presented to the school committee it shall likewise reconsider and repeal or rescind the referendum measure or shall notify the city council that it has failed to take such action with respect to the measure. Upon receipt of such notice, the city council shall thereupon provide for referring the matter to the voters in accordance with said section 10-15.~~

~~Sec. 10-12. Initiative and Referendum:~~ (g) Publication —The city clerk shall provide a Notice to Voters by mail to every household in the city with at least 1 registered voter. The notice shall contain a fair, concise summary of the initiative measure as prepared by the city solicitor and the full text of the measure which is to be submitted to the voters. Such notice shall be sent not fewer than 14 days preceding the date of the election at which such question is to be voted upon. Additional copies of the full text shall be available for distribution to the public in the office of the city clerk, at the public library, and by electronic means as determined by the city clerk.

(h) Ineligible Measures.

~~—None of the following measures shall be subject to initiative or referendum procedures: (i) proceedings relating to the organization or operation of the city council or school committee; (ii) an emergency measure passed in conformity with this charter; (iii) the city budget or the school committee budget; (iv) revenue loan orders; (v) any appropriations for the payment of the city's debts or obligations; (vi) appropriations of funds necessary to implement a written agreement executed under section 7 of chapter 150E of the General Laws; (vii) any proceedings or part thereof, relating to the election, employment, appointment, suspension, transfer, demotion, removal or discharge of any city officer or employee; (viii) any proceedings repealing or rescinding a measure or a part of a measure, which is protested by referendum procedures; and (ix) any proceeding providing for the submission or referral of a matter to the voters at an election.~~

Sec. 10-13. Initiative and Referendum: Forms of Petitions.

~~—(a) Signatures to initiative, supplemental initiative and referendum petitions need not all be on 1 paper.~~

~~—(b) Each separate page of an initiative, supplemental initiative and referendum petition on which signatures in addition to those of the original filers of the petition are obtained shall bear the names and addresses of any 10 original filers of the petition and shall also have the following 2 sentences in substantially the following form at the top of the petition:~~

~~—“Each of the undersigned requests that the (City Council) (School Committee) of the City of Newton pass the following measure (set forth initiative measure in full). Each of the undersigned certifies that the signer is a registered voter of the city and that the signer has not signed this initiative petition more than once.”~~

~~—(c) Each separate page of a supplemental initiative petition shall have the following 2 sentences in substantially the following form at the top:~~

~~—“Each of the undersigned requests that the following measure which was presented by an initiative petition and then rejected by the (City Council) (School Committee) of the City of Newton be submitted to all the registered voters of the city (set forth initiative measure in full). Each of the undersigned certifies that the undersigned is a registered voter of the city and has not signed this supplemental initiative petition more than once.”~~

—(d) Each separate page of a referendum petition shall have 2 sentences in substantially the following form at the top:

—“~~Each of the undersigned protests the action of the (City Council) (School Committee) of the City of Newton whereby it passed the following measure: (set forth the protested measure in full), and requests that such measure be repealed or rescinded.); or (Each of the undersigned protests the action of the (City Council) (School Committee) of the City of Newton in passing (describe measure in general terms) insofar as said measure contains the following provisions: (set forth the protested provisions in full), and requests that such provisions be repealed or rescinded.) Each of the undersigned certifies that the signer is a registered voter of the city and the signer has not signed this referendum petition more than once.~~”

—(e) All initiative, supplemental initiative, and referendum petitions shall require the following information to be furnished by each signer in accordance with the following instructions which shall appear on each page:

Name[‡]

Present Address (Street and Number)

[‡] Written signature of voter; provided, however, that a registered voter prevented from writing by physical disability may authorize another person to write the voter’s signature and address.

Registered Address (Street and Number on January 1, 20^{‡‡})

1.....

2.....

3.....

~~** If a voter was registered later than this date, the registered address on the later date shall be used.~~

~~—(f) If a petition is expected to be filed in the period between July 15 and December 31, the year inserted in "Registered Address" in subsection (e) shall be the then current year. If a petition is expected to be filed in the period between January 1 and July 15, the year inserted in "Registered Address" in said subsection (e) shall be the preceding year. (Referendum of 11 04 75.)~~

~~Sec. 10-14. Initiative and Referendum Procedures; Validation; Notice; Objections.~~

~~—Whenever a completed initiative petition, a supplemental initiative petition, or a referendum petition is filed with the city clerk, the city clerk shall submit the petition to the election commission forthwith. The election commission shall thereupon examine the petition and place a check mark against each signature which the commission determines is the name of a voter, except that when the commission has checked a number of signatures which is 40 per cent greater than the minimum number of signatures required for a valid petition, the commission need not examine or check any further signatures. The commission shall prepare a certificate showing the number of signatures to the petition which have been checked by the commission and the number of voters who were entitled to vote at the most recent preceding regular city election and the commission shall return the petition with the certificate to the city clerk. The number of persons who were so entitled to vote shall be deemed to be the number of voters for the purposes of sections 10-6, 10-8 and 10-10. The city clerk shall hold the petition and the commission's certificate available for public inspection during ordinary office hours for 2 full days; provided, however, that unless written objections to the certificate of the commission are filed by a voter within said period, the commission's certificate shall be deemed conclusive. If objections are so filed, the city clerk shall promptly give written notice of that fact to the first 10 petitioners. Objections to the sufficiency or validity of the signatures on any petition shall be disposed of forthwith in the manner provided by the General Laws and, to the extent required, the commission shall revise the certificate accordingly. If the certificate of the commission or its revised certificate, if any, shows that the number of signatures to the petition is insufficient, the city clerk shall give written notice of that fact to the first 10 petitioners and shall retain the petition for at least 6 months after which period the city clerk may destroy the petition. If the original or revised certificate shows that the number of signatures is sufficient, the city clerk shall present the petition and the applicable certificate to the city council or the school committee as may be appropriate.~~

~~Sec. 10-15. Initiative and Referendum: Referral to Voters.~~

~~—Whenever an initiative measure is to be submitted to the voters or a referendum measure is to be referred to the voters, the city council shall provide for the submission or referral at the next regular city election; but in the case of a referendum measure the city council may (i) within 30 days after a decision by the city~~

council or the school committee not to repeal or rescind a measure or (ii) in the case of inaction by the city council or the school committee on the repeal or rescission of a measure within 30 days following the 30-day period referred to in section 10-11, call a special election to be held within 120 days of the vote.

Sec. 10-16. Initiative and Referendum: Form of Question-

~~—(—The ballots used when voting on a) At the election at which an initiative measure is submitted to proposed by the registered voters, the ballot under this section shall contain a question in substantially the following form:~~

~~———“Shall the following measure which was proposed by voters in an initiative petition take effect? (Here insert the full text of the proposed measure, or a fair, concise summary prepared by the city solicitor) — YES _____ NO _____~~

~~(i) Time of Taking Effect —If a majority of the votes cast on the question is in the affirmative, and participation in the election complies with section 10-5, the measure shall be effective immediately, unless a later date is specified in the measure.~~

SECTION 10-3. Referendum Procedures~~an initiative petition~~

~~(a) Petition, Effect on Final Vote —Within 20 days following the date on which the city council or the school committee has voted finally to approve any measure, voters may file a petition protesting the measure or any part of the measure.~~

~~If such a petition is:~~

~~(1) signed by a number of voters equal to 5 percent of the total number of voters as of the date of the most recent regular city election as certified by the election commissioners;~~

~~(2) accompanied by an affidavit signed by 10 voters and containing each voter’s residential address stating those voters will constitute the petitioners committee; and~~

~~(3) addressed to the (City Council) (School Committee) take effect? (Text of proposed measure) Yes _____ No _____?” city council, or to the school committee and filed with the secretary of the school committee or the clerk of the council, the effective date of the measure shall be temporarily suspended.~~

~~—(b) The school committee or the city council shall immediately reconsider its vote on such measure or part of the measure, and if such measure or part of the measure is not rescinded, the city council shall provide for the submission of the question for a determination by the voters either at a special election, which it may call at its convenience, or within such time as may be requested by the school committee, or at the next regular city election, but pending such submission and determination, the effect of such measure shall continue to be suspended. Action by the council on referendum measures shall not be subject to the charter objection in section 2-9(c).~~

(b) Certain Initiative Provisions to Apply —The petition described in this section shall be termed a referendum petition and insofar as applicable section 10-2(b) providing for referral to the city solicitor for a legal opinion and section 10-2(g) providing for Notice to Voters of a summary and full text of the measure, shall apply to such referendum petitions, except that the words “measure or part of the measure protested against” shall be deemed to replace the word “measure” in said sections wherever it may occur and the word “referendum” shall be deemed to replace the word “initiative” wherever it may occur in said sections.

(c) Form of Question —At the election at which a referendum measure is referred to the voters, the ballot shall contain a question in substantially the same form as 1 of the following:

–“Shall the following measure which was passed by the (City Council) (School Committee) be approved? (Text of measure) Yes _____ No _____?”; or (Here insert the full text of the proposed measure being considered for repeal, or a fair, concise summary prepared by the petitioners and approved by the city solicitor) _____ Yes _____ No _____?”; or

–“Shall the following provisions of the (describe measure in general terms and the full text or a fair, concise summary prepared by the city solicitor of the affected provision(s) being considered for repeal) which was passed by the (City Council) (School Committee) be approved? (Text of provisions) Yes _____ No _____?”.

~~—(c) Whenever an initiative measure or referendum measure is to be submitted or referred to the voters, the city clerk shall furnish a copy of the measure to the election commission. If the election commission deems it necessary or desirable, the commission shall prepare a fair and concise summary of the measure for use on the ballot or ballot label in lieu of the full text of the measure. The full text of the measure which is the subject matter of the petition shall be mailed to each household in which a voter resides.~~

~~Sec. 10-17. Initiative and Referendum: (d) Time of Taking Effect.~~

~~—An initiative measure shall take effect and a referendum measure shall be repealed or rescinded if — If a majority of the persons voting votes cast on the question so vote. Such measure shall take effect upon certification by the Election Commission of such vote is in the affirmative, the measure or part of the measure shall take effect immediately, but if the majority of votes cast is in the negative and complies with section 10-5, the measure shall be null and void.~~

~~SECTION 10-4. Ineligible Measures~~~~Sec. 10-18. Initiative and Referendum: Inconsistent or Conflicting Provisions.~~

~~—If two or more questions are submitted or referred to the voters at one election and as a result of the election inconsistent measures, which were contained in such questions, would be in effect thereafter, only the measure receiving the greater number of votes in favor of its effectiveness shall take effect or remain in effect.~~

~~Sec. 10-19. Initiative and Referendum: Effect of Veto by the Mayor.~~

~~— Nothing in this article shall be construed to impair a mayor's power to veto action by~~

~~None of the following shall be subject to the initiative or the referendum procedures:~~

- ~~(1) any emergency measure adopted in conformity with the charter;~~
- ~~(2) the city council to budget or the extent that school committee budget;~~
- ~~(3) any revenue loan orders;~~
- ~~(4) any appropriation for the power is conferred on payment of the mayor, except that city's debt or debt service;~~
- ~~(5) any appropriation of funds to implement a collective bargaining agreement;~~
- ~~(6) any proceedings relating to the mayor shall not have any power to veto appointment, removal, discharge, employment, promotion, transfer, demotion, of a city council officer or employee or other personnel action;~~
- ~~(7) any proceedings repealing or rescinding a measure or part thereof which is protested by referendum procedures; and~~

(8) any proceedings providing for the submission of an initiative measure or the referral of a referendum measure to the voters. If the mayor vetoes at an initiative measure election.

SECTION 10-5. Required Voter Participation

For any measure to be effective under initiative, or for any measure or part of a measure to be declared null and void under a referendum procedure, at least 20 per cent of the total number of voters as of the most recent regular city election shall have participated in the election to adopt the measure proposed under the initiative or to rescind the measure protested by the referendum.

Commented [SC1]: Needs further discussion

SECTION 10-5. Conflicting Provisions

If 2 or more measures passed by at the same election contain conflicting provisions, only the 1 receiving the greatest number of affirmative votes shall take effect.

SECTION 10-6. Submission of Other Matters to Voters

As authorized by chapter 127 of the acts of 2014, the city council or vetoes proceedings of Newton may place a non-binding public opinion advisory question on the ballot for either a regular or special municipal election under the procedures established by section 18A of chapter 53 of the General Laws.

SECTION 10-7. Repeat Matters

A measure submitted to the voters through the initiative procedures as authorized by this Article and not approved by the voters shall not be resubmitted for a minimum of 2 years following such vote.

This prohibition shall also apply to any proposed initiative measure deemed by the city council repealing or rescinding a referendum measure and the city council fails to override the mayor's veto, the city council shall provide for submitting the initiative to: (a) be substantially the same as the defeated measure or referring (b) effectively repeal an adopted initiative measure.

Any measure that was the subject of a referendum measure and repealed by the voters shall not be the subject of an initiative procedure for a minimum of 2 years following such vote.

ARTICLE 11.
GENERAL PROVISIONS

~~See **SECTION 11-1. Certificate of Election and Appointment.**~~

~~Every person who is elected, including those elected by the city council, or appointed by the mayor to an office shall receive a certificate of the election or appointment from the city clerk. Except as otherwise provided by law, before performing any act under the election or appointment, the person shall take and subscribe to an oath to qualify the person to enter upon the duties of the office. A record of the taking of the oath shall be made by the city clerk. Any oath required by this section may be administered by the mayor or any officer authorized by law to administer oaths. **Public Records** of transactions of all officers and boards shall be properly kept and shall, subject to such reasonable restrictions as the city council may prescribe, be open to the inspection of the public.~~

~~All public records shall be kept and made available to the public in accordance with the General Laws.~~

~~**SECTION 11-2. Appointments and Removals. Conflict of Interest**~~

~~All officers and city agencies shall, subject to the laws of the Commonwealth relating to the civil service, appoint their subordinates and employees to hold office until they are removed by the officer or city agency under whom they serve; but all appointments in the Police and Fire Departments shall be approved by the mayor, who shall also have the power of removal in said departments.~~

~~(a) All city employees shall be considered municipal employees under chapter 268A of the General Laws and shall comply with state conflict of interest laws.~~

~~(b) The city councilors, school committee members, and area councilors shall not seek to unduly influence or coerce the official acts of any city official.~~

~~This provision shall not prohibit assistance to constituents in their dealings with city officials.~~

~~(c) The city councilors, school committee members, and members of multiple member bodies shall not seek to unduly influence or coerce the appointment or removal of any person to or from office, except that they may submit recommendations or references on behalf of a candidate for city employment which are consistent with this charter.~~

Commented [SC1]: SC agreed to delete (b) but Baker will discuss with law dept.

Commented [SC2]: SC agreed to delete (c) but Baker will discuss with law dept.

Commented [SC3]: See OY comments

SECTION 11-3. Rules and Regulations.

(a) All rules and regulations adopted by any city agency shall be filed with the city clerk within 2 weeks of being approved. No rule or regulation may take effect sooner than 5 days after filing.

Commented [SC4]: SC agreed to further discuss (a)

(b) A copy of all rules and regulations adopted by any city agency shall be filed in the office of the city clerk and made available for review by any person who requests such information- at a reasonable time. All rules and regulations shall be made available electronically to the public.

See SECTION 11-4. Reenactment and Publication of Ordinances.

(a) The city council shall, not later than 1 year after the charter is adopted and at 5-year intervals thereafter, cause to be prepared by, appoint a special recodification committee of the city council appointed for that purpose a proposed revision to propose revisions to or recodification of all ordinances of the city which. The recodification committee's proposal shall be presented to the city council for reenactment enactment. The revisions or reedifications recodification shall be prepared under the supervision of the city solicitor or, if the city council so directs, by special counsel retained for that purpose, and shall include a review for consistency with the comprehensive plan.

(b) See. The city council shall, at 5-year intervals, appoint a special committee to evaluate all boards and commissions that have been established by the city and make a recommendation as to whether the boards and commissions shall continue.

(c) The recodification committee under (a) and the special committee under (b) may be combined into a single committee by the city council.

Commented [SC5]: Some support for the concept, but perhaps better as an ordinance through Programs & Services. Further discussion needed.

SECTION 11-5. Liability of City Officers and Agencies.

All city officers and members of city agencies shall be deemed to be public or municipal officers or officials. Subject to appropriation, the city may indemnify any such officer or member for expenses or damages incurred in the defense or settlement of a claim against the officer or member which arose while acting within the scope of the officer or member's official duties or employment, but only to the extent and subject to the limitations imposed by the General Laws.

Commented [SC6]: See OY comments

~~See, SECTION 11-6. Prohibition.~~

~~—No member of the executive or legislative branch or of the school committee shall appear as counsel before any City officer or agency.~~

~~See, SECTION 11-7. Meetings of Qualified Voters.~~

~~—General meetings of the voters may be held from time to time, according to the right secured to the people by the constitution of the Commonwealth; and all such meetings may, and upon the request in writing of fifty voters setting forth the purposes thereof, shall be duly called by the city council.~~

~~See, 11-8-7. Construction of Public Facilities.~~

~~—There shall be established by ordinance a designer selection committee. Said to comply with section 54 of chapter 7C of the General Laws regarding selection of design service professionals for municipal building projects. The ordinance shall ~~provide that~~ require the designer selection committee ~~shall to~~ be consulted and directed to make recommendations whenever ~~an architect a~~ design professional is to be engaged by the city for ~~any purpose, a project that meets or exceeds the thresholds in said section 54.~~ There shall also be established by ordinance a design review committee which shall be responsible for the coordination of the design review process on any public ~~facility~~ building for which ~~an architect a~~ design service professional has been engaged. ~~The ordinance may provide for one~~ Whenever a school project is reviewed, at least 1 member of the school committee shall be included as a voting member of the design review committee for all public buildings or it may provide that separate committees be established for each facility.~~

~~See, SECTION 11-9-8. Severability.~~

~~—If any provision of the charter is held invalid, the other provisions of the charter shall not be affected ~~thereby~~. If the application of the charter or any of its provisions to any person or circumstances is held invalid, the application of the charter ~~and its provisions~~ to other persons and circumstances shall not be affected ~~thereby~~.~~

~~See, SECTION 11-10-9. Specific Provisions Shall Prevail.~~

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

~~See~~**SECTION 11-11-10. References to General Laws.**

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

~~See~~**SECTION 11-12-11. Computation of Time.**

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

~~Sec. 11-13. Definitions.~~

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

~~—"Charter", the charter and any amendments to the charter made through any of the methods provided under Article LXXXIX of the Amendments to the State Constitution.~~

~~—"City", the city of Newton.~~

~~—"City agency", any board, commission, committee, council, department or office of the city government; provided, however, that "city agency" shall not include a neighborhood area council as provided in article 9.~~

~~—"Full council", the entire authorized complement of the city council notwithstanding any vacancies which might exist.~~

~~“Initiative measure”, a measure proposed by initiative procedures under the charter.~~

~~“Majority vote”, a majority of those present and voting; provided, however, that a quorum of the body shall be present.~~

~~“Measure”, an ordinance passed or which could be passed by the city council or an order, resolution, vote or other proceeding passed or which could be passed by the city council or the school committee.~~

~~“Referendum measure”, a measure that is protested by referendum procedures under this charter.~~

~~“Voters”, the registered voters. In computing time under this charter the day of the act or event after which the designated period of time begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall be extended to the next day which is not a Saturday, Sunday or legal holiday. If the period of time designated is fewer than 7 days, intermediate Saturdays, Sundays and legal holidays shall not be included; if the period is 7 days or more, Saturdays, Sundays and legal holidays, shall be included.~~

SECTION 11-12. Uniform Procedures

(a) Meetings —All appointed multiple member bodies of the city shall meet regularly at the times and places that they prescribe by their own rules. Special meetings of any multiple member body shall be held on the call of the chair or by 1/3 of the members of the body by written notice delivered electronically or in hand, to the place of residence of each member at least 48 hours before the time set, which shall contain notice of the subjects to be acted upon. A copy of the notice shall also be posted in accordance with law. Except as may otherwise be authorized by law, all meetings of all multiple member bodies shall, at all times, be open to the public.

(b) Rules and Journals —Each appointed multiple member body shall determine its own rules and order of business and shall provide for keeping records of its proceedings. Unless otherwise provided in a body’s rules, procedures of all bodies shall be governed by the most recent edition of Robert’s Rules of Order.

(c) Voting —If requested by any member, any vote of an appointed multiple member body shall be taken by a call of the roll and the vote of each member shall be recorded in the records, but if the vote is unanimous, only that fact need be recorded.

(d) Quorum —A majority of the members of an appointed multiple member body then in office shall constitute a quorum. Unless some other provision is made by the multiple member body's own rules while a quorum is present, except on procedural matters, a majority of the full membership of the body shall be required to vote on any matter representing an exercise of the powers of the multiple member body, unless otherwise required by law; provided, however that a vote to meet in "executive session" shall require a majority of members of the body then in office.

(e) Public Comments —Multiple member bodies shall develop and adopt a public comment policy and shall consider the convenience of the public when scheduling such public comment periods. Each multiple member body shall post its public comment policy by electronic means and shall, not less frequently than annually, review the policy and make revisions as needed.

SECTION 11-13. Periodic Charter Review

Not later than July 1, at 10-year intervals in each year ending in a 5, the mayor and city council shall establish, by ordinance, a charter review committee to review the city charter. The charter review committee shall submit its report to the city clerk as specified by ordinance. The report shall be made available to the public electronically or at a cost not to exceed the actual cost of reproduction.

All members of the charter review committee shall be voters of the city of Newton.

Commented [SC7]: Baker will discuss with Law Dept to explore carving out exceptions. Favors recod process but not wholesale review.

ARTICLE 12-
TRANSITIONAL PROVISIONS

See-SECTION 12--1-: Continuation. of Existing Laws

~~————All general laws, special laws, city ordinances, resolutions, rules and regulations of the City or pertaining to Newton, including special acts creating regional entities and arrangements of which the city is a member, that are in force at the time the when this charter is adopted, takes effect, and not specifically or by implication repealed by this charter, shall continue in full force and effect until amended or repealed, or rescinded by law, or until they expire by their own limitation. In any case in which the provisions of this charter are found to be inconsistent with the provisions of any general or special law that would otherwise be applicable, the provisions of this charter shall be deemed to prevail. Every inconsistency between the prior law and this charter, shall continue be decided in force until amended or repealed, favor of this charter.~~

See-SECTION 12--2-: Continuation of Government. and Administration

~~————All City agencies shall continue to perform their duties until re-elected, reappointed, re-elected, or until successors to their respective positions are duly appointed or elected, or until their duties have been transferred and assumed by another city agency.~~

See-SECTION 12-3-: Continuation of Administrative Personnel.

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

~~See-All city officers and employees shall continue to perform their duties in the same manner and to the same extent as they have performed the same prior to the adoption by the voters of this home rule charter.~~

SECTION 12--4: Transfer of Records and Property.

—All records, property, and equipment ~~whatsoever~~ of any Citycity agency, or part ~~thereof~~ of a city agency, the powers and duties of which are assigned in whole or in part to another Citycity agency, shall be transferred ~~forthwith~~ immediately to the City ~~that~~ agency ~~to which such powers and duties are assigned.~~

See-SECTION 12--5: Effect on Obligations, Taxes and Other Legal Acts, Etc.

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

See-SECTION 12--6: Disposition of Special Acts, Legislation

~~—(a) Partial Repeal of Certain Special Acts—The following Special Acts insofar as they confer power upon the City of Newton which the City would not otherwise hold under the charter, General Laws or the constitution, are retained; otherwise, they are hereby repealed, it being the explicit intention of this paragraph that portions of any Special Acts retained which limit or restrict a power conferred or the manner in which it is to be exercised be repealed and that powers so conferred are to be exercised in accordance with the charter: Chapter three hundred and forty four of the acts of eighteen hundred and seventy two; chapter three hundred and fifty three of the acts of eighteen hundred and seventy four; chapter one hundred and forty five of the acts of eighteen hundred and seventy four; chapter one hundred and twenty five of the acts of eighteen hundred and seventy four; chapter eighteen of the acts of eighteen hundred and seventy six;~~

~~chapter fifty four of the acts of eighteen hundred and seventy six; chapter one hundred of the acts of eighteen hundred and seventy seven; chapter one hundred and forty four of the acts of eighteen hundred and seventy seven; chapter sixty three of the acts of eighteen hundred and seventy eight; chapter one hundred and forty seven of the acts of eighteen hundred and seventy eight; chapter sixty nine of the acts of eighteen hundred and seventy eight; chapter one hundred and nine of the acts of eighteen hundred and eighty six; chapter three hundred and two of the acts of eighteen hundred and eighty nine; chapter two hundred and thirty four of the acts of eighteen hundred and ninety; chapter seventy of the acts of eighteen hundred and ninety two; chapter two hundred and ninety six of the acts of eighteen hundred and ninety three; chapter one hundred and ninety eight of the acts of eighteen hundred and ninety five; chapter three hundred and forty of the acts of eighteen hundred and ninety six; chapter two hundred and sixty nine of the acts of eighteen hundred and ninety eight; chapter sixty three of the acts of eighteen hundred and ninety eight; chapter eighty nine of the acts of eighteen hundred and ninety nine; chapter four hundred and fifteen of the acts of nineteen hundred; chapter two hundred and four of the acts of nineteen hundred and one; chapter one hundred and sixty five of the acts of nineteen hundred and one; chapter four hundred and eighty of the acts of nineteen hundred and two; chapter one hundred and thirty three of the acts of nineteen hundred and three; chapter one hundred and sixty seven of the acts of nineteen hundred and six; chapter two hundred and two of the acts of nineteen hundred and ten; chapter seven hundred and sixty nine of the acts of nineteen hundred and thirteen; chapter one hundred and eighty nine of the acts of nineteen hundred and thirteen; chapter six hundred and eighty three of the acts of nineteen hundred and thirteen; chapter one hundred and seventy seven of the acts of nineteen hundred and fifteen; chapter three hundred and thirty two of the acts of nineteen hundred and seventeen; chapter eighty six of the acts of nineteen hundred and twenty; chapter five hundred and sixty one of the acts of nineteen hundred and twenty; chapter thirty four of the acts of nineteen hundred and twenty four; chapter two hundred and forty three of the acts of nineteen hundred and twenty four; chapter thirty five of the acts of nineteen hundred and twenty five; chapter three hundred and thirty six of the acts of nineteen hundred and twenty seven; chapter seventy three of the acts of nineteen hundred and twenty eight; chapter twenty five of the acts of nineteen hundred and thirty two; chapter twenty of the acts of nineteen hundred and thirty four; chapter two hundred and sixty one of the acts of nineteen hundred and thirty five; chapter three hundred and fifteen of the acts of nineteen hundred and forty nine; chapter three hundred and forty four of the acts of nineteen hundred and forty nine; chapter three hundred and sixty seven of the acts of nineteen hundred and fifty three; chapter four hundred and nineteen of the acts of nineteen hundred and fifty five; chapter two hundred and eleven of the acts of nineteen hundred and fifty five; chapter one hundred and two of the acts of nineteen hundred and fifty six; chapter one hundred and one of the acts of nineteen hundred and fifty six; chapter four hundred and thirty nine of the acts of nineteen hundred and sixty one; chapter three hundred and sixteen of the acts of nineteen hundred and sixty two; chapter three hundred and thirty seven of the acts of nineteen hundred and sixty seven; chapter six hundred and thirty one of the acts of nineteen hundred and sixty nine.~~

~~—(b) Special Acts Repealed Outright—The following Special Acts are hereby repealed: Chapter one hundred and sixteen of the acts of eighteen hundred and thirty two; chapter two hundred and eighty three of the acts of eighteen hundred and ninety seven; chapter one hundred and thirty five of the acts of nineteen hundred; chapter two hundred and eighty two of the acts of nineteen hundred and two; chapter three hundred and seventy six of the acts of nineteen hundred and two; chapter one hundred and fifty two of the acts of nineteen hundred and three; chapter eighty eight of the acts of nineteen hundred and five; chapter three hundred and sixty two of the acts of nineteen hundred and ten; chapter five hundred and fifty seven of the acts of nineteen hundred and ten; chapter one hundred and eight of the acts of nineteen hundred and~~

~~thirteen; chapter three hundred and eighty three of the acts of nineteen hundred and thirteen; chapter one hundred and five of the acts of nineteen hundred and fourteen; chapter eighty six of the acts of nineteen hundred and nineteen; chapter eighty five of the acts of nineteen hundred and nineteen; chapter one hundred and eighty two of the acts of nineteen hundred and forty three; chapter two hundred and eight of the acts of nineteen hundred and fifty two; chapter five hundred and forty nine of the acts of nineteen hundred and fifty three; chapter five hundred and thirty two of the acts of nineteen hundred and fifty four; chapter one hundred twenty one of the acts of nineteen hundred and fifty five; chapter one hundred and eighty two of the acts of nineteen hundred and sixty;~~

~~—(c) *Special Acts Repealed: Action Taken Thereunder Preserved*—The following Special Acts are repealed; provided, however, that nothing contained in the charter shall be construed to revoke, invalidate or otherwise alter acts done in compliance therewith or under the authority thereof: Chapter one hundred and twenty five of the acts of eighteen hundred and sixty nine; chapter one hundred and thirty four of the acts of eighteen hundred and seventy one; chapter two hundred and seventy eight of the acts of eighteen hundred and ninety three; chapter four hundred and fifty seven of the acts of eighteen hundred and ninety six; chapter one hundred and ninety nine of the acts of nineteen hundred and two; chapter two hundred of the acts of nineteen hundred and two; chapter thirty three of the acts of nineteen hundred and fifteen; chapter one hundred and six of the acts of nineteen hundred and fifteen; chapter eighty seven of the acts of nineteen hundred and seventeen; chapter seventy two of the acts of nineteen hundred and eighteen; chapter three hundred and thirty two of the acts of nineteen hundred and twenty; chapter seventy four of the acts of nineteen hundred and twenty one; chapter one hundred and sixty seven of the acts of nineteen hundred and twenty three; chapter three hundred and ninety four of the acts of nineteen hundred and twenty four; chapter three hundred and twenty seven of the acts of nineteen hundred and twenty eight; chapter one hundred and sixty four of the acts of nineteen hundred and forty seven; chapter two hundred and ten of the acts of nineteen hundred and forty seven; chapter four hundred of the acts of nineteen hundred and forty nine; chapter fifty two of the acts of nineteen hundred and fifty five; chapter six hundred and twenty one of the acts of nineteen hundred and sixty three.~~

~~—(d) *Special Acts Specifically Retained*: The following Special Acts are hereby recognized, confirmed and retained—an act of *January 11, sixteen hundred and eighty seven* ordering that Cambridge Village be a distinct village and place by itself; and an act of *December 15, sixteen hundred and ninety one* ordering that Cambridge Village thenceforth be called New Town, except insofar as they are inconsistent with Section 1-1 of this charter, providing for the name, the "City of Newton", which portions are hereby repealed.~~

(a) See All provisions of Article XII, section 6 as appearing in the city's Home Rule Charter adopted in 1971, identified as *Partial Repeal of Certain Special Acts, Special Acts Repealed Outright, Special Acts Repealed: Action Taken Thereunder Preserved, and Special Acts Specifically Retained* are hereby retained by reference.

(b) The following acts pertaining to the City of Newton are hereby retained: chapter 705 of the acts of 1975, chapter 479 of the acts of 1982, chapter 499 of the acts of 1989, chapter 73 of the acts of 2007, and chapter 127 of the acts of 2014.

(c) The following acts pertaining to the City of Newton are hereby repealed: chapter 50 of the acts of 1991, chapter 173 of the acts of 1992, chapter 174 of the acts of 1992, chapter 368 of the acts of 2002, chapter 152 of the acts of 2008, chapter 26 of the acts of 2015 and chapter 87 of the acts of 2015.

Commented [SC1]: Review to determine which Acts are retained/deleted

SECTION 12--7. Time of Taking Effect

TheThis charter shall become fullybe effective 12:01 p.m. on the first secular day of January following the election at which it is approvedupon adoption by the voters, except as follows:

(a) The term of office of the mayor elected at the election at which the charter is approved shall be for the term of two years, and the provisions of Section 3-1 of the charter with respect to the term of office of the mayor being four years and with respect to the mayor's serving full time, not holding any other elected public office and not actively engaging in a business, occupation or profession shall not become effective until the term beginning after the regular City election next following the election at which the charter is adopted.

(a) (b) The counting of consecutive terms for the office of Section 2-1(a) relative to the composition of the city council shall take effect for the regular city election of November 2019.

(b) Sections 2-1(d), 3-1, and 4-1(c) relative to term limits shall take effect for the mayor, city council and school committee member shall begin with the first term after the elected in 2017; provided, however, that school committee members re-elected to office at such election shall continue to be bound by the term limit requirements in effect at the time of their initial election to office.

(c) Section 2-5 relative to vacancies on the council shall take effect on January 1, 2020.

(d) Section 2-6 relative to the adoption and revision of council rules shall take effect as follows:

(1) Within 20 days of its election, the council-elect elected in the November 2019 municipal election at which the charter is adopted. Terms served prior to the effective date of the charter shall not be countedshall meet for the purpose of the limitation containedexamining the current rules and determining the need for any revisions to adhere to the provisions of Section 2-6. The meeting shall be called by the city clerk. The councilor-elect with the highest number of years of service on the council shall preside. If 2 or more councilors have served the same number of years on the

council, the member oldest in Section 4-1(e) of the charter shall preside at such meeting.

(2) This act Subsection (c) relative to the number of councilors required to call a special meeting of the city council shall take effect on January 1, 2020.

(e) Section 2-9(c) relative to charter objection shall take effect on January 1, 2016. (Acts of 2015, Chap. 87.)2020.

(f) Section 3-3(d) relative to the service of city employees on boards and commissions shall take effect as follows:

(1) any city employee serving as chair of a board or commission shall be replaced as chair upon the completion of the term to which appointed or by June 30, 2018, whichever shall occur sooner; and,

(2) no additional city employees shall be appointed as members of any board or commission until the number of such employees does not exceed 1/3 of the board or commission membership nor shall sitting city employees continue to serve beyond the completion of the term to which appointed, or no later than January 1, 2021, whichever shall occur sooner.

(g) The mayor shall file the initial required listing of all vacancies on boards and commissions under Section 3-3(f) by June 30, 2018.

(h) Section 3-7(a) shall be in effect as of the close of FY2018, with the mayor submitting the close of fiscal year report within 6 weeks after the close of FY2018.

(i) The first forecast submitted to the city council by the mayor under section 5-1 shall be submitted no later November 1, 2018.

(j) The third paragraph of section 5-2 shall take effect upon the mayor's submission of the FY2019 budget; the amount appropriated for legal assistance to the city council in the FY2019 budget shall be 2 per cent of the proposed budget for the city law department.

(k) The city council shall adopt an ordinance establishing the requirements and deadline for the first submission of the capital inventory required under section 5-4(b) no later than June 30, 2018. The first inventory shall be submitted to the council within 6 months of the adoption of such ordinance or by November 1, 2018, whichever shall occur sooner.

(l) The city council shall by ordinance establish the procedures for oversight and administration of the audit required under section 5-6 no later than June 30, 2018.

(m) (1) Until such time as ordinances are adopted pursuant to (2) below, Neighborhood Area Councils shall continue to operate under their existing resolutions.

(2) To implement Article 9, the city council shall adopt ordinances under sections 9-2, 9-4 and 9-6 and the guidelines required by section 9-3, no later than January 1, 2020.

- (n) Any petitions for initiative and referendum pursuant to section 10-4 and 10-10 of the charter adopted in 1971, as amended, filed with the city clerk prior to adoption of this charter shall proceed and be completed as provided in the charter adopted in 1971, as amended; provided, however, that the requirement for voter participation appearing in section 10-5 shall be in effect for such initiative or referendum elections scheduled to be held after adoption of this charter.
- (o) Section 11-3(a) and 11-3(b) shall apply to any rules or regulations adopted, amended or revised after January 1, 2018.
- (p) The city council shall appoint the committees referenced under of section 11-4(a) and 11-4(b) no later than January 1, 2019.
- (q) Section 11-12 establishing uniform procedures for multiple member bodies shall take effect on January 1, 2018; provided, however, that public comment policies under section 11-12 (e) shall be adopted and electronically posted by June 30, 2018.

Commented [SC2]: Review to determine appropriate time to take effect

11/30/18

CLEAN

**CHARTER SUBCOMMITTEE RECOMMENDATIONS ACCEPTED
TO
CURRENT CHARTER**

HIGHLIGHTED SECTIONS NEED FURTHER DISCUSSION

PREAMBLE

We, the people of Newton, in order to reaffirm the customary and traditional liberties of the people with respect to the conduct of our local government, adopt this charter with the expectation and intent that the charter will continue and enhance the city's strong traditions of active voter participation; ethical, transparent and responsive leadership; wise use of public resources; respect for all in the community; and an engaged populace. We expect and intend that our government will be welcoming and inclusive and will promote equality and respect for all people.

~~Sec. 11-13. Definitions.~~

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

"Charter", the city charter and any amendments to the charter made through any of the methods provided under Article LXXXIX of the Amendments to the State Constitution of the Commonwealth of Massachusetts.

"City", the city of Newton.

"City agency", any board, commission, committee, council, department or office of the city government; provided, however, that "city agency" shall not include a neighborhood area council as provided in article 9.

"Council member", a councilor-by-ward or councilor-at-large.

"Emergency", a sudden, unexpected, unforeseen happening, occurrence or condition which necessitates immediate action or response.

"Full council", the entire authorized complement of the city council notwithstanding any vacancies which might exist.

~~might exist.~~

"Initiative measure", a measure proposed by initiative procedures under the charter.

"Majority vote", a majority of those present and voting; provided, however, that a quorum of the body shall be present.

__“Measure”, an ordinance passed or which could be passed by the city council or an order, resolution, vote or other proceeding passed or which could be passed by the city council or the school committee.

__“Multiple member body”, any board, commission or committee consisting of 2 or more persons, whether elected or appointed or otherwise constituted, but not including the city council, the school committee or an *ad hoc* or advisory committee appointed by the mayor.

Commented [SC1]: Need to speak with law dept of definition

__“Referendum measure”, a measure that is protested by referendum procedures under this charter.

__“Reorganization plan”, a plan submitted by the mayor to the city council, which proposes the abolition or consolidation of 1 or more city agencies, including the reassignment of significant functions from 1 agency to another, or the establishment of 1 or more new city agencies as deemed necessary to deliver 1 or more municipal services.

__“Voters”, the registered voters of the city of Newton.

Commented [SC2]: Most definitions Not yet discussed

ARTICLE 1.

INCORPORATION; FORM OF GOVERNMENT; POWERS OF THE CITY

SECTION 1-1. Incorporation

The inhabitants of the City of Newton, within the corporate limits as now established or as hereafter may be established in the manner provided by law, shall continue to be a body corporate and politic with perpetual succession under the name "City of Newton."

SECTION 1-2. Form of Government

The administration of the fiscal, prudential, and municipal affairs of the city, with the government of the city, shall be vested in an executive branch, to consist of the mayor, and a legislative branch, to consist of the city council. The executive branch shall never exercise any legislative power, and the legislative branch shall never exercise any executive power.

SECTION 1-3. Powers of the City

Subject only to express limitations on the exercise of any power or function by a city in the constitution or statutes of the Commonwealth, it is the intent and the purpose of the charter to confer upon the city all powers it is possible to confer under the constitution and statutes of the Commonwealth, as fully and as completely as though each such power were specifically and individually enumerated in this charter.

SECTION 1-4. Construction

The powers of the city under the charter shall be construed liberally in favor of the city, and the specific mention of particular powers is not intended to limit in any way the general powers of the city as stated in section 1-3.

SECTION 1-5. Intergovernmental Relations

Subject only to express limitations of the constitution and statutes of the Commonwealth, the city may exercise any of its powers and perform any of its functions, and may participate in the financing of any of its powers and functions, jointly or in cooperation, by contract or otherwise, with the Commonwealth or any civil division or agency of the Commonwealth or the United States government or any agency of the United States government.

ARTICLE 3.
EXECUTIVE BRANCH

SECTION 3-1. Mayor; Election; Term; Compensation

- (a) There shall be a mayor, who shall be elected by and from the voters of the city.
- (b) The mayor shall be the chief executive officer of the city. The mayor shall devote full time to the office and shall not hold any other elective public office, nor actively engage in any other business, occupation or profession during the term of office as mayor. The mayor shall hold office for the term of 4 years from the first day of January following the election and until the mayor's successor is qualified.
- (c) No person shall be eligible for election to the office of mayor for a fourth consecutive full term.
- (d) The mayor shall receive such salary as the city council shall determine by ordinance, but no change in such salary shall take effect during the current term of the mayor in office at the time of the adoption of the ordinance making such change.

Commented [SC1]: This section is being deferred

SECTION 3-2. Executive Powers; Enforcement of Ordinances; Assistants

- (a) In General —The executive and administrative powers of the city shall be vested solely in the mayor and may be exercised by the mayor either personally or through the several city agencies under the mayor's general supervision and control. The mayor shall enforce the laws, ordinances and orders for the government of the city, and shall keep a record of all official acts as mayor. To aid the mayor with official mayoral duties, the mayor may appoint staff, fix their salaries and define their duties.
- (b) Citizen Assistance Officer—The mayor shall appoint a citizen assistance officer in accordance with section 3-3 and fix the officer's salary. The citizen assistance officer shall be responsible for processing citizen complaints and inquiries that are directed or referred to the officer. The citizen assistance officer shall establish and maintain procedures for the examination and appropriate referral of requests for information or assistance on any municipal matter. The citizen assistance officer shall maintain a central file, open to the public, of all inquiries and complaints together with their resolutions. The citizen assistance officer shall analyze data on citizen complaints and inquiries and shall regularly submit reports as directed by the mayor
- (b) The mayor shall appoint a chief administrative officer to coordinate and direct the operations of the various departments and functions of municipal government. The chief administrative officer shall serve at the pleasure of the mayor and be appointed on the basis of having strong administrative and executive qualifications and shall be especially fitted by education, training and experience to perform the duties of the office.

Commented [SC2]: These sections require further discussion

SECTION 3-3. Appointments by Mayor

(a) The mayor shall appoint all city officers, department heads and all volunteer members of city boards, commissions, committees and agencies for whom no other method of appointment is provided by this charter or by law.

(b) Appointments by the mayor of city officers and department heads shall take effect 30 days from the date of the first regularly scheduled city council meeting after notice of the proposed appointment is filed with the city clerk, unless the city council rejects the appointment within those 30 days.

(c) All officers and city agencies shall, subject to the civil service laws of the commonwealth, appoint their subordinates and employees to hold office until they are removed by the officer or city agency under whom they serve; but the mayor shall approve all appointments in the police and fire departments, and the mayor shall have the power of removal in the police and fire departments.

(d) Appointments by the mayor of volunteer members of city boards, commissions, committees and agencies shall take effect 60 days from the date of the first regularly scheduled city council meeting after the notice of the proposed appointment is filed with the city clerk, unless the city council rejects the appointment within those 60 days.

(e) Rejection by the city council of an appointment by the mayor under (b) or (d) shall require a 2/3 vote.

(f) Appointments to multiple member bodies may include city employees only if allowed by the multiple member body's enabling language; provided that, unless otherwise required by law, such employees shall not serve as chair of the multiple member body. Unless otherwise required by law, no city employee shall serve on a multiple member body in a seat designated for a resident of the city.

Commented [SC3]: This section requires further discussion

(g) The question on rejection of any appointment made by the mayor shall not be subject to charter objection as provided in section 2-9(c).

(h) The mayor shall regularly, but not less frequently than annually, provide to the city clerk and the city council a listing of all vacancies on city boards and commissions, along with an indication of the appointing authority responsible for filling the vacancy. The city clerk shall make the listing available to the public electronically and otherwise.

SECTION 3-4. Notice of Appointment

In making appointments, the mayor shall sign and file with the city clerk a notice of appointment, a copy of which shall be filed on the same day with the clerk of the council.

SECTION 3-5. Removal of Officials; Vacancy Notification

(a) The mayor may remove any person appointed by the mayor by filing written notice of the removal with the city clerk.

(b) If the position of a city officer or department head becomes vacant, the mayor shall notify the city clerk and the city council within 48 hours.

Commented [SC4]: Further discussion necessary. City officer is not a defined term.

Commented [SC5]: J. Yeo felt 48 hours is too short. 72 is recommended and needs to be further discussed.

SECTION 3-6. Temporary Appointments

If there is a vacancy in an office appointed by the mayor, whether by reason of disability, death, resignation or removal from office for any reason, the mayor may appoint the head of another city office or agency, or a city officer or employee, or some other person to perform the duties of the office for a period not to exceed 3 months. If a vacancy continues beyond 3 months, the mayor may make a second 3-month appointment, but no temporary appointment shall be continued beyond 6 months without the approval of the city council.

SECTION 3-7. Communications to the City Council; Calling of Special Meetings of the City Council

(a) Communications — Within 6 weeks following the start of each fiscal year, the mayor shall submit to the city council, and make available to the public, a complete report on the financial and administrative activities of the city for the preceding fiscal year. The mayor shall not less frequently than semi-annually, by written communications to the city council, provide full disclosure of municipal revenues and all information related to the financial condition and future needs of the city and shall recommend such measures to the council as the mayor determines the needs of the city require.

Commented [SC6]: Comptroller is to speak with CFO and Chair of Finance about this section

(b) Calling Special Meetings — The mayor may call a special meeting of the city council by causing a notice of such meeting that specifies the matters which the mayor desires to be considered to be left at the usual place of residence of each councilor or given to in hand. Public notice of the meeting shall be posted at least 48 hours in advance of the time set for the meeting, or for such lesser period as the mayor may determine in case of an emergency, of which the mayor shall be the judge.

SECTION 3-8. Adoption of Measures; Mayor's Veto

Not sooner than 24 nor more than 96 hours after the adjournment of any meeting of the city council, the clerk of the council shall present to the mayor the record of the proceedings of the meeting and copies of all measures passed at the meeting, unless a city councilor has filed with the city clerk a motion to reconsider the measure under section 2-9(d). Every measure relative to the affairs of the city passed by the city council shall be presented to the mayor for the mayor's approval except: (i) any measure relating to the internal affairs of the city council; (ii) any measure relating to the election of officers whose election by the city council is authorized by law or this charter; (iii) a matter exclusively within the jurisdiction of the city council; (iv) the budget; or (v) an action taken by the city council under section 10-2(d) or 10-3(a) in response to an initiative or referendum petition.

Within 10 days of receipt of a measure, the mayor shall return it to the clerk of the council with or without approval, or with a veto. Upon the mayor's approval of a measure it shall be considered adopted. If a measure is vetoed, the mayor shall attach a written statement explaining the reasons for the veto. Measures vetoed by the mayor shall be considered again by the city council at a meeting not sooner than 7 days after receipt of the mayor's veto. If the city council shall again pass such vetoed measure by a 2/3 vote of the full council it shall then be considered adopted. Every measure not approved or vetoed by the mayor shall be considered adopted 10 days after it has been presented to the mayor.

SECTION 3-9. Temporary Absence from the Office of the Mayor

If by reason of sickness, absence from the city or otherwise, the mayor is unable to perform the duties of the office of the mayor, the president of the city council shall, as acting mayor, possess the powers of the mayor only in those matters requiring immediate attention, but the acting mayor shall have no power to make permanent appointments. If neither the mayor nor the president of the city council is able to perform the duties of the office of the mayor, the vice-president of the city council shall possess the powers of acting mayor. The city council, with approval of the mayor, may provide by ordinance for the handling of certain administrative duties of the mayor by other city councilors during the temporary absence of the mayor.

During any period in which the president or the vice-president of the city council is serving as acting mayor, the acting mayor shall not serve as the presiding officer of the city council.

The restriction contained in section 3-1 relative to holding other office or actively engaging in a business, occupation or profession shall not apply to an acting mayor holding office under this section.

Commented [SC7]: This section requires further discussion

SECTION 3-10. Vacancy in the Office of the Mayor

(a) If a vacancy occurs in the office of the mayor, at any time preceding the last 9 calendar months of the term for which the mayor was elected, the city council shall, at its next regular meeting, introduce a measure calling for a special election to fill the vacancy for the remainder of the unexpired term and shall, within 30 days, act on that measure. The special election shall be held within 150 days and, if a preliminary election is required under section 8-3, the preliminary election shall be held within 100 days of the calling of the election.

(b) If a vacancy occurs in the office of the mayor during the last 9 calendar months of the term for which the mayor was elected, the president of the city council shall serve as the acting mayor until the next election for mayor is held. If the city council president is unable or unwilling to serve, the vice president of the city council shall serve as mayor. If both the council president and the council vice president are unable or unwilling to serve, the council shall elect from among its membership a councilor to serve as the acting mayor.

(c) Upon the certification of the results from the next election, the person elected to be mayor shall be immediately sworn and begin serving as mayor and the new mayor shall, in addition to the term for which the member was elected, serve for the balance of the then-unexpired term.

The mayor's removal from residency within the city shall create a vacancy in the office.

Commented [SC8]: This section requires further discussion

ARTICLE 4.
SCHOOL COMMITTEE

SECTION 4-1. Composition; Eligibility; Election and Term

(a) Composition—There shall be a school committee of 9 members; 8 of whom shall be known as school committee members. The school committee members shall be nominated and elected by the voters of the city, 1 school committee member to be elected from each ward of the city. The mayor shall serve, *ex officio*, as a member of the school committee with full power to vote. The school committee shall be the judge of the election and qualification of its members.

(b) Eligibility—Only voters shall be eligible to hold the office of school committee member. A candidate for the office of school committee member shall be a resident of the ward from which the candidate seeks election as of June 1 of the year in which a regular election is held.

If member of the school committee moves to a different ward, the member shall continue to serve and to perform the member's official duties during the member's term of office. The removal from residency within the city by any school committee member shall create a vacancy in such office.

No member of the school committee shall hold any other public elected office.

(c) Election and Term—The term of each school committee member shall be 2 years beginning on the first day of January after the member's election and shall continue until a successor is qualified. No person shall be eligible for election to the school committee for a fifth consecutive full term.

(d) Compensation— School committee members shall receive such salary as the city council shall determine by ordinance, but no change in such salary shall take effect during the current term of the school committee in office at the time of the adoption of the ordinance making such change.

Subject to appropriation and to prior authorization by the school committee, school committee members shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their duties.

SECTION 4-2. Rules of Procedure; Posting of Policies

(a) Organization—Upon the mayor and school committee members being sworn into office, the mayor shall convene the school committee, which shall elect a chair and vice-chair from among its members. The vice-chair shall act as chair during the absence or disability of the

chair. The school committee shall appoint a secretary who shall not be 1 of its members. The chair, vice-chair and secretary shall serve at the pleasure of the school committee.

(b) Quorum— The presence of a majority of members of the school committee then in office shall constitute a quorum for the transaction of business.

(c) Rules of Procedure—The school committee shall establish and periodically update rules for its proceedings.

Except as otherwise authorized by the General Laws, all sessions of the school committee shall be open to the public. A full, accurate and up-to-date record of the proceedings of the school committee and policies adopted by the school committee shall be kept and:

- (i) made electronically available to the public in a timely manner;
- (ii) shall include a record of each roll call vote; and
- (iii) shall be available in such other forms and venues as the school committee determines.

SECTION 4-3. General Powers and Duties

The school committee shall aim for educational excellence in accordance with this charter and the Massachusetts General Laws. The school committee shall have all the powers and duties which school committees may have under the General Laws and may have such additional powers and duties as provided by the city council or this charter. The powers of the school committee shall include, but not be limited to, the power to:

- (i) establish a mission statement for the Newton Public Schools and policies that align with that statement;
- (ii) select, evaluate and remove the superintendent;
- (iii) adopt all reasonable rules and regulations for the management of the public school system;
- (iv) adopt and oversee the administration of an annual operating budget for the school department, as provided in the city's budget;
- (v) oversee all school buildings and grounds including, but not limited to, furnishing all school buildings with proper fixtures, furnishings and equipment; and providing ordinary maintenance and repairs on all school buildings;
- (vi) upon the recommendation of the superintendent, establish and appoint associate or assistant superintendents who shall report to the superintendent; and
- (vii) serve as the employer representative for all employment agreements and labor contracts of employees under the jurisdiction of the Newton Public Schools.

SECTION 4-4. New School Buildings

If the school committee determines that a new school building or a major renovation is required, the school committee shall send a written communication to the city council describing the determination. The city council shall not approve a new building or a major renovation unless the school committee has approved the educational specifications of the new building or major renovation that align with the best practices established by the commonwealth.

This section shall also apply to a new building or renovation on property that the city acquires to address the educational needs of the community.

SECTION 4-5. Prohibitions

No former school committee member shall be appointed to any compensated city office or employment until 1 year after the expiration of the member's service on the school committee. This section shall not prohibit a former city employee or city officer from resuming the same position of the city officer or city employee within 1 year of the conclusion of service on the school committee.

SECTION 4-6. Filling of Vacancies

(a) If a vacancy occurs, by failure to elect, removal from the city, death, resignation or otherwise, on the school committee at any time before the final 9 months of the term for which the school committee member was elected, the city council shall at its next regular meeting introduce a measure calling for a special election to fill the vacancy for the remainder of the unexpired term and shall, within 30 days, act on that measure. The election shall be by the voters of the city.

(b) If a vacancy occurs within the final 9 months of the term for which a school committee member is elected, no special election shall be held to fill the vacancy and the person elected at the next regular city election to the seat in which the vacancy exists shall immediately be sworn and shall, in addition to the term for which the member was elected, serve for the balance of the then-unexpired term.

(c) A candidate for the office of school committee member shall be a resident of the ward in which there is a vacancy as of the date on which the city council calls the special election.

ARTICLE 5.
FINANCIAL PROCEDURES

SECTION 5-1. Financial Condition of the City

The mayor shall annually prepare a forecast of city revenues, expenditures and the general financial condition of the city. The forecast shall cover at least 5 years and shall include all funds subject to appropriation. The forecast shall also include, but need not be limited to, an identification of factors with significant impact on the financial condition of the city, revenue and expenditure trends, potential sources of new or expanded revenues and long or short-term actions which may enhance the financial condition of the city. The mayor shall submit the forecast to the city council at least 6 months prior to the mayor's submission of the next fiscal year's operating budget and shall make the forecast available to the public for inspection.

SECTION 5-2. Submission of Budget; Budget Message

Within the period prescribed by state statute, the mayor shall submit to the city council a proposed budget for the ensuing fiscal year, which shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year, an accompanying budget message and supporting documents.

The mayor's message shall explain the budget for all city agencies both in fiscal terms and in terms of work programs. It shall: (i) outline the proposed financial policies of the city for the ensuing fiscal year; (ii) describe the important features of the budget; (iii) indicate any major changes from the current fiscal year in financial policies, expenditures, and revenues and the reasons for such changes; (iv) summarize the city's debt position; and (v) include such other material as the mayor deems desirable or the city council may reasonably require.

The budget shall include funding for legal assistance to the city council and an independent audit of all city accounts. The amount of funding for legal assistance to the city council may be amended by ordinance; provided however, that such an ordinance shall not take effect until the fiscal year following its adoption.

Commented [SC1]: The subcommittee would like to hear the opinion of the City Solicitor.

SECTION 5-3. Action on the Budget

The city council shall adopt the budget, with or without amendments, within 45 days following the day the budget is received by the city council. In amending the budget, the city council may delete or decrease any programs or amounts, except expenditures required by law or for debt service, but it may not increase any programs or amounts.

If the city council fails to take action with respect to any item in the budget within 45 days after receipt of the budget, such amount shall, without any action by the city council, become a part of the appropriations for the year and be available for the purposes specified.

SECTION 5-4. Capital Inventory and Capital Improvement Program

(a) The mayor and city council shall be active stewards of the city's physical assets.

(b) Capital Inventory — The mayor shall establish and update not less frequently than annually, an inventory of significant capital assets, such as: buildings; infrastructure (water, sewer, storm water, and road systems); moveable equipment; and such other property as determined by ordinance. The city council shall, by ordinance, establish the requirements of the inventory, such as: age; condition; maintenance and repair history; remaining useful life; and other features the city council deems appropriate.

(c) Capital Improvement Program— The mayor shall create a capital improvement program, which shall include: (i) a clear summary of its contents; (ii) a list of all capital improvements proposed to be undertaken during the next 5 fiscal years with supporting data and rationale; (iii) cost estimates, method of financing and recommended time schedules; and (iv) the estimated annual cost of operating and maintaining the capital assets included. The capital improvement program shall be revised and extended annually.

(d) Submission — The mayor shall submit to the city council the inventory and the 5-year capital improvement program at least 6 months prior to the mayor's submission of the operating budget for the next fiscal year.

(e) Public Hearing—The city council shall make the proposed capital improvement program available to the public and shall hold at least 1 public hearing, in accordance with state law, on the capital improvement program.

(f) Adoption —After the public hearing, concurrently with the passage of the next fiscal year's budget, the city council may amend and shall, by resolution, adopt the capital improvement program.

(g) Annual Report—The mayor shall annually report on the city's progress regarding the capital improvement program.

Commented [SC2]: This section needs further review, especially capital inventory requirement

SECTION 5-5. Contracts

All contracts entered into for or in behalf of the city by any officer or city agency shall be subject to the approval of the mayor, unless otherwise provided by law.

SECTION 5-6. Independent Audit

The city council shall annually provide for an independent audit of all city funds to be conducted by a certified public accountant in accordance with generally accepted accounting principles. The city council shall, by ordinance, establish procedures for oversight and administration of the annual audit including: (i) method of selection of an independent auditor; (ii) the scope of the audit; and (iii) receipt of the report and any recommendations from the auditor, including recommendations regarding internal controls.

Commented [SC3]: This section was not discussed

ARTICLE 6.
ADMINISTRATIVE DEPARTMENTS

SECTION 6-1. Reorganization Plans

(a) The mayor may prepare and submit to the city council reorganization plans which may, subject to applicable law and this charter, reorganize, consolidate or abolish any city agency, in whole or in part, or establish new city agencies as the mayor considers necessary or expedient. The reorganization plan shall be accompanied by an explanatory memo which shall include: (i) reference to any ordinances to be repealed or modified; and (ii) a summary of proposed ordinance language changes to be put into effect by the plan.

(b) Every reorganization plan shall, upon receipt by the city council, be referred to an appropriate committee of the city council which shall, not more than 30 days after receipt of the plan, hold a public hearing on the matter and shall, not later than the second regular meeting of the city council following the hearing, report either that it approves or disapproves of the plan. A reorganization plan shall become effective 90 days after the date it is received by the city council unless the city council has prior to that date voted to disapprove the reorganization plan or unless a later effective date is specified in the plan. A reorganization plan presented by the mayor to the city council under this section shall not be amended by the city council but shall either be approved or rejected as submitted. Reorganization plans shall not be subject to charter objection as provided in section 2-9(c).

(c) The mayor shall provide notice, not later than March 1, to the city council of any reorganization plan reasonably expected to affect the budget for the ensuing fiscal year.

SECTION 6-2. Publication of Reorganization Plan

The city clerk shall maintain an up-to-date record of any reorganization plan adopted under this article and copies of all such plans shall be included as an appendix in any publication of the ordinances of the city.

Commented [SC1]: Find history of City Council and Mayor being given reorg rights

**ARTICLE 7.
PLANNING**

SECTION 7-1. Department of Planning and Development

There shall be a department of planning and development and a planning and development board. The membership and term of office of the planning and development board shall be determined by ordinance. The mayor shall appoint the members of the board subject to council confirmation as provided in section 3-3(a).

SECTION 7-2. Comprehensive Plan

(a) Content—There shall be a comprehensive plan containing the plan elements described in section 81D of chapter 41 of the General Laws; provided however, that the city may also undertake planning activities relating to particular services or specific geographic areas within the city.

(b) Adoption— Within 2 years of the swearing in of a new mayor, the mayor shall submit to the city council reaffirmation of the comprehensive plan or a modification of the plan, including the recommendations of the planning and development board, for the city council's approval with or without amendments.

The mayor may submit to the city council a new comprehensive plan or modifications to the comprehensive plan as the mayor deems necessary.

Upon receipt of a proposed new comprehensive plan, or a proposed modification of the comprehensive plan, and the recommendations of the planning and development board, the city council shall hold at least 1 public hearing on the proposed modification or new comprehensive plan and shall, by resolution, adopt the new comprehensive plan or modification of the comprehensive plan with or without amendments.

(c) Effect—The comprehensive plan shall serve as a guide to all future action by the city council concerning land use and development regulations, and expenditures for capital improvements.

SECTION 7-3. Implementation of the Comprehensive Plan

(a) Land Use and Development Regulations —In accordance with the General Laws, the city council may by ordinance adopt land use and development regulations including, but not limited to, an official map and zoning regulations reflecting the guidance of the city's comprehensive plan.

(b) Action by the City Council and the Planning and Development Board — If any proposed ordinance involves a matter addressed in the comprehensive plan concerning land use, development regulations, or capital improvement expenditures, the city council shall first refer the proposed ordinance to the planning and development board. The board shall report its recommendations in writing to the city council on the proposed ordinance in accordance with section 5 of chapter 40A of the General Laws.

Commented [SC1]: Check with Law Dept about control: MGL or Special Act

ARTICLE 8.
NOMINATIONS AND ELECTIONS

SECTION 8-1. General Provisions for All Elections

(a) Elections of city officers shall be nonpartisan, and election ballots or ballot labels for such officers shall be printed without any party mark, emblem or designation.

(b) Signature Requirements —The number of signatures of voters in the city required to place the name of a candidate on the official ballot to be used at an election shall be:

(1) for mayor: 400 signatures; and

(2) for councilor-by-ward, councilor-at-large or school committee member: 150 signatures.

(c) Ballot Position —The election commission shall randomly draw lots to determine the order in which names of candidates shall appear on the ballot for each office.

(d) Information to Voters —The name and street address of each candidate, but not any other information regarding the candidate, shall appear on the ballot at any city election; provided, however, that if the candidate in a regular city election is an incumbent of the office to which the candidate seeks election, the phrase "Candidate for Re-election" shall appear beside the candidate's name.

SECTION 8-2. Regular City Elections

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

SECTION 8-3. Preliminary Elections: Special Elections

(a) Date—For any special election called to fill a vacancy in the office of mayor and for each regular city election, a preliminary election shall be held to nominate candidates. The city council shall set the date for each preliminary election.

(b) Conditions Making Preliminary Election Unnecessary —If at the expiration of the time for filing petitions for nomination of candidates to be voted for any preliminary election, not more than twice as many such petitions have been filed for an office as are to be elected to such office, the candidates whose petitions have been filed shall be considered nominated to said office, and their names shall be voted on for such office at the succeeding regular or special election, and the election commission shall not print said names upon the ballot to be used at said preliminary election and no other nomination to said office shall be made. If no names are to be printed upon the official ballot to be used at any preliminary election, no preliminary election shall be held.

Commented [SC1]: If composition of City Council changes, this may need revision

SECTION 8-4. Special Elections

The city council shall set the date for a special election to fill the office of councilor-by-ward, councilor-at-large, or school committee member as provided in sections 2-5 and 4-6; provided that the date shall be within 120 days after the date on which the election is called. No special election under section 2-5, 3-10 or 4-6 shall be held during the month of July or August and any election that would otherwise be scheduled to take place in July or August shall be held at the earliest possible date in September. A person elected at a special election shall immediately be sworn and assume that office.

Commented [SC2]: This needs to be reviewed to be sure the allotted time constraints will not cause any issues.

SECTION 8-5. Wards

The territory of the city shall be divided into 8 wards.

SECTION 8-6. Application of State Laws

Except as expressly provided in the charter and authorized by state law, city elections shall be governed by the laws of the commonwealth relating to the composition, powers and duties of the election commission, the right to vote, the registration of voters, the nomination of candidates, the conduct of preliminary, regular and special elections, the submission of charter amendments and other propositions, the counting of votes and the declaration of results.

SECTION 8-7. Certificate of Election and Appointment

Every person who is elected, or appointed by the mayor, city council or school committee to an office, shall receive a certificate of the election or appointment from the city clerk. Except as otherwise provided by law, before performing any act under the election or appointment, the person shall take and subscribe to an oath to qualify the person to enter upon the duties of the office. A record of the taking of the oath shall be made by the city clerk. Any oath required by this section may be administered by the mayor or any officer authorized by law to administer oaths. Records of transactions of all officers and boards shall be properly kept and shall, subject to such reasonable restrictions as the city council may prescribe, be open to the inspection of the public.

ARTICLE 10
FREE PETITION, INITIATIVE AND REFERENDUM

SECTION 10-1. Free Petition

(a) Individual, Discretionary Petitions.

The city council and the school committee shall receive all petitions addressed to either of them and may take such action with regard to the petitions as they deem necessary.

(b) Group Petitions to City Council or School Committee

If 100 or more voters sign a petition seeking the passage of a measure, and deliver the petition to the city council or the school committee, the city council or school committee shall hold a public hearing and act with respect to the petition. The hearing shall be held by the city council or the school committee, or, in either case, by a committee or sub-committee of the city council or school committee, not later than 3 months after the petition is filed with the clerk of the council or the secretary of the school committee. Hearings on 2 or more petitions filed under this section may be held at the same time and place. The clerk of the council or the secretary of the school committee shall mail notice of the hearing to the 10 persons whose names appear first on the petition at least 7 days before the hearing. Notice, by publication, of all such hearings shall be at public expense.

SECTION 10-2. Initiative Measures

(a) Commencement — Initiative procedures shall be started by the filing of an initiative petition with the clerk of the council or the secretary of the school committee. The petition shall be addressed to the city council or to the school committee, shall contain a request for the passage of a particular measure, which shall appear in full in the petition, and shall be signed by at least 200 voters. The petition shall be accompanied by an affidavit signed by 10 voters and containing each voter's residential address stating those voters will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form.

(b) Referral to City Solicitor — If the election commissioners determine that the number of signatures of voters is sufficient, the petition shall be delivered to the clerk of the council or the secretary of the school committee, who shall, immediately following receipt of such certification, deliver a copy of the petition to the city solicitor. The city solicitor shall, within 15 days following receipt of a copy of the petition, advise the city council or the school committee, in writing, whether the measure may lawfully be proposed by the initiative process and whether, in its present form it may be lawfully adopted by the city council or the school committee. If the opinion of the city solicitor is that the measure is not in proper form, the

reply shall state the reasons for such opinion. A copy of the opinion of the city solicitor shall also be mailed to those identified on the affidavit as the petitioners committee.

(c) Additional Signatures —If the city solicitor determines that the petition is in a proper form, the city clerk shall provide blank petition forms within 10 days for the use of subsequent signers and shall print at the top of each blank form a fair, concise summary of the proposed measure, as determined by the city solicitor, together with the names and addresses of the members of the petitioners committee. The city clerk shall notify the petitioners committee that the blank petition forms are issued. Within 180 days following the date of the notice, the petition shall be returned and filed with the city clerk signed by at least 10 per cent of the total number of registered voters as of the date of the most recent regular city election.

Signatures to an initiative petition need not all be on 1 paper, but all papers pertaining to any 1 measure shall be fastened together and shall be filed as a single instrument, with the endorsement on it of the name and address of the person designated as filing the papers. The street and number of the residence of each signer shall appear with each signature on the petition.

Within 10 days following the filing of the petition, the election commissioners shall determine the number of voters that signed the petition and the percentage represented by that number of the total number of voters as of the date of the most recent regular city election. The election commissioners shall attach to the petition a certificate showing the results of its examination and shall return the petition to the clerk of the council or the secretary of the school committee, depending on how the petition is addressed. A copy of the election commissioners' certificate shall also be mailed to the members of the petitioners committee.

(d) Action on Petitions —Within 30 days following the date a petition and certificate has been returned to the clerk of the council or the secretary of the school committee by the election commissioners, the city council or the school committee shall pass the measure without change, pass a measure which is stated to be in lieu of the initiative measure, or reject the measure. The passage of a measure which is in lieu of an initiative measure shall be deemed to be a rejection of the initiative measure. If the city council or the school committee fails to act with respect to any initiative measure which is presented to it within 30 days following the date it is returned to either the council or school committee by the election commissioners the measure shall be deemed to have been rejected on such thirtieth day. If an initiative measure is rejected, the clerk of the council or the secretary of the school committee shall promptly give notice of that fact to the members of the petitioners committee by certified mail. Initiative measures shall not be subject to the charter objection in section 2-9(c).

(e) Supplemental Petitions —Within 45 days following the date an initiative petition has been rejected, a supplemental initiative petition may be filed with the clerk of the council or the secretary of the school committee. The supplemental initiative petition shall be signed by a number of additional voters which is equal to 5 percent of the total number of voters as of the date of the most recent regular city election.

(f) Scheduling of Election —If the number of signatures to such supplemental petition is found to be sufficient by the election commissioners for petitions submitted to the school committee, the city clerk shall notify both the secretary of the school committee and the city council. For petitions submitted to the council, the clerk shall notify the city council. For either a petition addressed to the school committee or the city council, the city council shall call a special election to be held on a date fixed by it not less than 45 nor more than 90 days following the date of the certificate of the city clerk that a sufficient number of voters have signed the supplemental initiative petition and shall submit the proposed measure, without alteration, to the voters for determination; provided, however, if any other city election is to be held within 180 days following the date of said certificate, the city council may omit the calling of such special election and cause said question to appear on the municipal election ballot at such approaching election for determination by the voters.

(g) Publication —The city clerk shall provide a Notice to Voters by mail to every household in the city with at least 1 registered voter. The notice shall contain a fair, concise summary of the initiative measure as prepared by the city solicitor and the full text of the measure which is to be submitted to the voters. Such notice shall be sent not fewer than 14 days preceding the date of the election at which such question is to be voted upon. Additional copies of the full text shall be available for distribution to the public in the office of the city clerk, at the public library, and by electronic means as determined by the city clerk.

(h) Form of Question —The ballots used when voting on a measure proposed by the voters under this section shall contain a question in substantially the following form: Shall the following measure which was proposed by voters in an initiative petition take effect? (Here insert the full text of the proposed measure, or a fair, concise summary prepared by the city solicitor) – YES ___ NO ___

(i) Time of Taking Effect —If a majority of the votes cast on the question is in the affirmative, and participation in the election complies with section 10-5, the measure shall be effective immediately, unless a later date is specified in the measure.

SECTION 10-3. Referendum Procedures

(a) Petition, Effect on Final Vote —Within 20 days following the date on which the city council or the school committee has voted finally to approve any measure, voters may file a petition protesting the measure or any part of the measure.

If such a petition is:

(1) signed by a number of voters equal to 5 percent of the total number of voters as of the date of the most recent regular city election as certified by the election commissioners;

(2) accompanied by an affidavit signed by 10 voters and containing each voter's residential address stating those voters will constitute the petitioners committee; and

(3) addressed to the city council, or to the school committee and filed with the secretary of the school committee or the clerk of the council, the effective date of the measure shall be temporarily suspended.

The school committee or the city council shall immediately reconsider its vote on such measure or part of the measure, and if such measure or part of the measure is not rescinded, the city council shall provide for the submission of the question for a determination by the voters either at a special election, which it may call at its convenience, or within such time as may be requested by the school committee, or at the next regular city election, but pending such submission and determination, the effect of such measure shall continue to be suspended. Action by the council on referendum measures shall not be subject to the charter objection in section 2-9(c).

(b) Certain Initiative Provisions to Apply —The petition described in this section shall be termed a referendum petition and insofar as applicable section 10-2(b) providing for referral to the city solicitor for a legal opinion and section 10-2(g) providing for Notice to Voters of a summary and full text of the measure, shall apply to such referendum petitions, except that the words "measure or part of the measure protested against" shall be deemed to replace the word "measure" in said sections wherever it may occur and the word "referendum" shall be deemed to replace the word "initiative" wherever it may occur in said sections.

(c) Form of Question —At the election at which a referendum measure is referred to the voters, the ballot shall contain a question in substantially the same form as 1 of the following:

"Shall the following measure which was passed by the (City Council) (School Committee) be approved? (Here insert the full text of the proposed measure being considered for repeal, or a fair, concise summary prepared by the petitioners and approved by the city solicitor) Yes ____ No ____?"; or

“Shall the following provisions of the (describe measure in general terms and the full text or a fair, concise summary prepared by the city solicitor of the affected provision(s) being considered for repeal) which was passed by the (City Council) (School Committee) be approved Yes ____ No ____?”.

(d) Time of Taking Effect —If a majority of the votes cast on the question is in the affirmative, the measure or part of the measure shall take effect immediately, but if the majority of votes cast is in the negative and complies with section 10-5, the measure shall be null and void.

SECTION 10-4. Ineligible Measures

None of the following shall be subject to the initiative or the referendum procedures:

- (1) any proceedings relating to the internal organization or operation of the city council or of the school committee;
- (2) any emergency measure adopted in conformity with the charter;
- (3) the city budget or the school committee budget;
- (4) any revenue loan orders;
- (5) any appropriation for the payment of the city's debt or debt service;
- (6) any appropriation of funds to implement a collective bargaining agreement;
- (7) any proceedings relating to the appointment, removal, discharge, employment, promotion, transfer, demotion, of a city officer or employee or other personnel action;
- (8) any proceedings repealing or rescinding a measure or part thereof which is protested by referendum procedures; and
- (9) any proceedings providing for the submission or referral of a matter to the voters at an election.

SECTION 10-5. Required Voter Participation

For any measure to be effective under initiative, or for any measure or part of a measure to be declared null and void under a referendum procedure, at least 20 per cent of the total number of voters as of the most recent regular city election shall have participated in the election to adopt the measure proposed under the initiative or to rescind the measure protested by the referendum.

Commented [SC1]: Needs further discussion

SECTION 10-6. Conflicting Provisions

If 2 or more measures passed at the same election contain conflicting provisions, only the 1 receiving the greatest number of affirmative votes shall take effect.

SECTION 10-7. Submission of Other Matters to Voters

As authorized by chapter 127 of the acts of 2014, the city of Newton may place a non-binding public opinion advisory question on the ballot for either a regular or special municipal election under the procedures established by [section 18A of chapter 53 of the General Laws](#).

SECTION 10-8. Repeat Matters

A measure submitted to the voters through the initiative procedures as authorized by this Article and not approved by the voters shall not be resubmitted for a minimum of 2 years following such vote.

This prohibition shall also apply to any proposed initiative measure deemed by the city solicitor to: (a) be substantially the same as the defeated measure or (b) effectively repeal an adopted initiative measure.

Any measure that was the subject of a referendum and repealed by the voters shall not be the subject of an initiative procedure for a minimum of 2 years following such vote.

ARTICLE 11.
GENERAL PROVISIONS

SECTION 11-1. Public Records

All public records shall be kept and made available to the public in accordance with the General Laws.

SECTION 11-2. Conflict of Interest

(a) All city employees shall be considered municipal employees under chapter 268A of the General Laws and shall comply with state conflict of interest laws.

(b) The city councilors, school committee members, and area councilors shall not seek to unduly influence or coerce the official acts of any city official.

This provision shall not prohibit assistance to constituents in their dealings with city officials.

(c) The city councilors, school committee members, and members of multiple member bodies shall not seek to unduly influence or coerce the appointment or removal of any person to or from office, except that they may submit recommendations or references on behalf of a candidate for city employment which are consistent with this charter.

Commented [SC1]: SC agreed to delete (b) but Baker will discuss with law dept.

Commented [SC2]: SC agreed to delete (c) but Baker will discuss with law dept.

Commented [SC3]:

SECTION 11-3. Rules and Regulations

(a) All rules and regulations adopted by any city agency shall be filed with the city clerk within 2 weeks of being approved. No rule or regulation may take effect sooner than 5 days after filing.

Commented [SC4]: SC agreed to further discuss (a)

(b) A copy of all rules and regulations adopted by any city agency shall be filed in the office of the city clerk and made available for review by any person who requests such information at a reasonable time. All rules and regulations shall be made available electronically to the public.

SECTION 11-4. Reenactment and Publication of Ordinances

(a) The city council shall, at 5-year intervals, appoint a recodification committee of the city council to propose revisions to or recodification of all ordinances of the city. The recodification committee's proposal shall be presented to the city council for enactment. The revisions or recodification shall be prepared under the supervision of the city solicitor or, if the city council so directs, by special counsel retained for that purpose, and shall include a review for consistency with the comprehensive plan.

(b) The city council shall, at 5-year intervals, appoint a special committee to evaluate all boards and commissions that have been established by the city and make a recommendation as to whether the boards and commissions shall continue.

(c) The recodification committee under (a) and the special committee under (b) may be combined into a single committee by the city council.

Commented [SC5]: Some support for the concept, but perhaps better as an ordinance through Programs & Services. Further discussion needed.

SECTION 11-5. Liability of City Officers and Agencies

All city officers and members of city agencies shall be deemed to be public or municipal officers or officials. Subject to appropriation, the city may indemnify any such officer or member for expenses or damages incurred in the defense or settlement of a claim against the officer or member which arose while acting within the scope of the officer or member's official duties or employment, but only to the extent and subject to the limitations imposed by the General Laws.

Commented [SC6]: See OY comments

SECTION 11-6. Prohibition

No member of the executive or legislative branch or of the school committee shall appear as counsel before any city officer or agency.

SECTION 11-7. Construction of Public Facilities

There shall be established by ordinance a designer selection committee to comply with section 54 of chapter 7C of the General Laws regarding selection of design service professionals for municipal building projects. The ordinance shall require the designer selection committee to be consulted and directed to make recommendations whenever a design professional is to be engaged by the city for a project that meets or exceeds the thresholds in said section 54. There shall also be established by ordinance a design review committee which shall be responsible for the coordination of the design review process on any public building for which a design service professional has been engaged. Whenever a school project is reviewed, at least 1 member of the school committee shall be included as a voting member of the design review committee.

SECTION 11-8. Severability

If any provision of the charter is held invalid, the other provisions of the charter shall not be affected. If the application of the charter or any of its provisions to any person or circumstances is held invalid, the application of the charter to other persons and circumstances shall not be affected.

SECTION 11-9. Specific Provisions Shall Prevail

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

SECTION 11-10. References to General Laws

All references to the 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 General Laws enacted subsequent to the adoption of the charter.

SECTION 11-11. Computation of Time

In computing time under this charter the day of the act or event after which the designated period of time begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall be extended to the next day which is not a Saturday, Sunday or legal holiday. If the period of time designated is fewer than 7 days, intermediate Saturdays, Sundays and legal holidays shall not be included; if the period is 7 days or more, Saturdays, Sundays and legal holidays, shall be included.

SECTION 11-12. Uniform Procedures

(a) Meetings —All appointed multiple member bodies of the city shall meet regularly at the times and places that they prescribe by their own rules. Special meetings of any multiple member body shall be held on the call of the chair or by 1/3 of the members of the body by written notice delivered electronically or in hand, to the place of residence of each member at least 48 hours before the time set, which shall contain notice of the subjects to be acted upon. A copy of the notice shall also be posted in accordance with law. Except as may otherwise be authorized by law, all meetings of all multiple member bodies shall, at all times, be open to the public.

(b) Rules and Journals —Each appointed multiple member body shall determine its own rules and order of business and shall provide for keeping records of its proceedings. Unless otherwise provided in a body's rules, procedures of all bodies shall be governed by the most recent edition of Robert's Rules of Order.

(c) Voting —If requested by any member, any vote of an appointed multiple member body shall be taken by a call of the roll and the vote of each member shall be recorded in the records, but if the vote is unanimous, only that fact need be recorded.

(d) Quorum —A majority of the members of an appointed multiple member body then in office shall constitute a quorum. Unless some other provision is made by the multiple member body's own rules while a quorum is present, except on procedural matters, a majority of the full membership of the body shall be required to vote on any matter representing an exercise of the powers of the multiple member body, unless otherwise required by law; provided, however that a vote to meet in "executive session" shall require a majority of members of the body then in office.

(e) Public Comments —Multiple member bodies shall develop and adopt a public comment policy and shall consider the convenience of the public when scheduling such public comment periods. Each multiple member body shall post its public comment policy by electronic means and shall, not less frequently than annually, review the policy and make revisions as needed.

SECTION 11-13. Periodic Charter Review

Not later than July 1, at 10-year intervals in each year ending in a 5, the mayor and city council shall establish, by ordinance, a charter review committee to review the city charter. The charter review committee shall submit its report to the city clerk as specified by ordinance. The report shall be made available to the public electronically or at a cost not to exceed the actual cost of reproduction.

All members of the charter review committee shall be voters of the city.

Commented [SC7]: Baker will discuss with Law Dept to explore carving out exceptions. Favors recod process but not wholesale review.

ARTICLE 12
TRANSITIONAL PROVISIONS

SECTION 12-1: Continuation of Existing Laws

All general laws, special laws, city ordinances, resolutions, rules and regulations of or pertaining to Newton, including special acts creating regional entities and arrangements of which the city is a member, that are in force when this charter takes effect, and not specifically or by implication repealed by this charter, shall continue in full force and effect until amended or repealed, or rescinded by law, or until they expire by their own limitation. In any case in which the provisions of this charter are found to be inconsistent with the provisions of any general or special law that would otherwise be applicable, the provisions of this charter shall be deemed to prevail. Every inconsistency between the prior law and this charter shall be decided in favor of this charter.

SECTION 12-2: Continuation of Government and Administration

All city agencies shall continue to perform their duties until re-elected, reappointed, or until successors to their respective positions are duly appointed or elected, or until their duties have been transferred and assumed by another city agency.

SECTION 12-3: Continuation of Personnel

All city officers and employees shall continue to perform their duties in the same manner and to the same extent as they have performed the same prior to the adoption by the voters of this home rule charter.

SECTION 12-4: Transfer of Records and Property

All records, property and equipment of any city agency, or part of a city agency, the powers and duties of which are assigned in whole or in part to another city agency, shall be transferred immediately to that agency.

SECTION 12-5: Effect on Obligations, Taxes, Etc.

All official bonds, recognizances, obligations, contracts, and other instruments entered into or executed by or to the city before the adoption of this charter, and all taxes, assessments, fines, penalties, forfeitures, incurred or imposed, due or owing to the city, shall be enforced and

collected, and all writs, prosecutions, actions and causes of action, except as otherwise provided in this charter, shall continue without abatement and remain unaffected by the charter; and no legal act done by or in favor of the city shall be rendered invalid by reason of the adoption of this charter.

SECTION 12-6: Disposition of Special Legislation

- (a) All provisions of Article XII, section 6 as appearing in the city's Home Rule Charter adopted in 1971, identified as *Partial Repeal of Certain Special Acts, Special Acts Repealed Outright, Special Acts Repealed: Action Taken Thereunder Preserved, and Special Acts Specifically Retained* are hereby retained by reference.
- (b) The following acts pertaining to the City of Newton are hereby retained: chapter 705 of the acts of 1975, chapter 479 of the acts of 1982, chapter 499 of the acts of 1989, chapter 73 of the acts of 2007, and chapter 127 of the acts of 2014.
- (c) The following acts pertaining to the City of Newton are hereby repealed: chapter 50 of the acts of 1991, chapter 173 of the acts of 1992, chapter 174 of the acts of 1992, chapter 368 of the acts of 2002, chapter 152 of the acts of 2008, chapter 26 of the acts of 2015 and chapter 87 of the acts of 2015.

Commented [SC1]: Review to determine which Acts are retained/deleted

SECTION 12-7 Time of Taking Effect

This charter shall be effective upon adoption by the voters except as follows:

- (a) Section 2-1(a) relative to the composition of the city council shall take effect for the regular city election of November 2019.
- (b) Sections 2-1(d), 3-1, and 4-1(c) relative to term limits shall take effect for the mayor, city council and school committee elected in 2017; provided, however, that school committee members re-elected to office at such election shall continue to be bound by the term limit requirements in effect at the time of their initial election to office.
- (c) Section 2-5 relative to vacancies on the council shall take effect on January 1, 2020.
- (d) Section 2-6 relative to the adoption and revision of council rules shall take effect as follows:
 - (1) Within 20 days of its election, the council-elect elected in the November 2019 municipal election shall meet for the purpose of examining the current rules and determining the need for any revisions to adhere to the provisions of Section 2-6. The meeting shall be called by the city clerk. The councilor-elect with the highest number of years of service on the council shall preside. If 2 or more councilors have served the same number of years on the council, the member oldest in age shall preside at such meeting.

- (2) Subsection (c) relative to the number of councilors required to call a special meeting of the city council shall take effect on January 1, 2020.
- (e) Section 2-9(c) relative to charter objection shall take effect on January 1, 2020.
- (f) Section 3-3(d) relative to the service of city employees on boards and commissions shall take effect as follows:
- (1) any city employee serving as chair of a board or commission shall be replaced as chair upon the completion of the term to which appointed or by June 30, 2018, whichever shall occur sooner; and,
- (2) no additional city employees shall be appointed as members of any board or commission until the number of such employees does not exceed 1/3 of the board or commission membership nor shall sitting city employees continue to serve beyond the completion of the term to which appointed, or no later than January 1, 2021, whichever shall occur sooner.
- (g) The mayor shall file the initial required listing of all vacancies on boards and commissions under Section 3-3(f) by June 30, 2018.
- (h) Section 3-7(a) shall be in effect as of the close of FY2018, with the mayor submitting the close of fiscal year report within 6 weeks after the close of FY2018.
- (i) The first forecast submitted to the city council by the mayor under section 5-1 shall be submitted no later November 1, 2018.
- (j) The third paragraph of section 5-2 shall take effect upon the mayor's submission of the FY2019 budget; the amount appropriated for legal assistance to the city council in the FY2019 budget shall be 2 per cent of the proposed budget for the city law department.
- (k) The city council shall adopt an ordinance establishing the requirements and deadline for the first submission of the capital inventory required under section 5-4(b) no later than June 30, 2018. The first inventory shall be submitted to the council within 6 months of the adoption of such ordinance or by November 1, 2018, whichever shall occur sooner.
- (l) The city council shall by ordinance establish the procedures for oversight and administration of the audit required under section 5-6 no later than June 30, 2018.
- (m) (1) Until such time as ordinances are adopted pursuant to (2) below, Neighborhood Area Councils shall continue to operate under their existing resolutions.
- (2) To implement Article 9, the city council shall adopt ordinances under sections 9-2, 9-4 and 9-6 and the guidelines required by section 9-3, no later than January 1, 2020.
- (n) Any petitions for initiative and referendum pursuant to section 10-4 and 10-10 of the charter adopted in 1971, as amended, filed with the city clerk prior to adoption of this charter shall proceed and be completed as provided in the charter adopted in 1971, as

amended; provided, however, that the requirement for voter participation appearing in section 10-5 shall be in effect for such initiative or referendum elections scheduled to be held after adoption of this charter.

- (o) Section 11-3(a) and 11-3(b) shall apply to any rules or regulations adopted, amended or revised after January 1, 2018.
- (p) The city council shall appoint the committees referenced under of section 11-4(a) and 11-4(b) no later than January 1, 2019.
- (q) Section 11-12 establishing uniform procedures for multiple member bodies shall take effect on January 1, 2018; provided, however, that public comment policies under section 11-12 (e) shall be adopted and electronically posted by June 30, 2018.

Commented [SC2]: Review to determine appropriate time to take effect



Charter Subcommittee Report

City of Newton In City Council

Monday February 26, 2018

Present: Councilors Baker (Chair), Krintzman, Albright, Kalis, and Karyn Dean (Committee Clerk)

Councilor Baker presented background material to the Subcommittee: a side-by-side comparison of the present and proposed charter text; a red-lined version of the edits to the Charter; and a compilation of all Charter Commission minutes, which may also be found on the Charter Commission website. <http://www.newtonma.gov/gov/chartercommission/default.asp> These materials will provide a clear idea of what was proposed, what the existing provision is, and some understanding of the rationale from the record.

The general model is to try and address those provisions that can be handled with relative ease and move the more controversial provisions to the fall; explicitly term limits and the composition of the City Council. The Chair provided a tentative schedule in a memo that was distributed at the meeting. The Subcommittee will take up several articles of the Charter at each meeting. In preparation for each meeting, the Charter Commission notes, red-lined text, and side-by-side comparison relative to those Articles would be provided to the Subcommittee members. If the Subcommittee came upon a particularly controversial provision, they could set that aside for more in-depth work in the fall.

Councilor Krintzman suggested that he could summarize the work of the Charter Commission on those Articles to start the process at each meeting. The Committee could then discuss the options and take straw votes on each Article. He would prepare Articles 1, 3, 5 and 6 for the March 21st meeting. If that process does not seem to be a satisfactory, they could consider a different procedure for April and May. Councilor Baker said it would be useful if he could look at what Councilor Krintzman prepares to see if he has any suggestions prior to the meeting as part of his job is to assist the process generally.

The Subcommittee would produce a report at the end of the spring to bring to the Programs & Services Committee with recommendations of proposed language for adoption.

It was suggested that the Preamble be reviewed. Councilor Krintzman made a motion that the proposed Preamble to the Charter (reproduced in an appendix below), be part of the recommendation of the Sub-Committee and all members agreed, with the understanding that all such votes, as in the case of the Charter Commission itself, were preliminary to be confirmed at the end of the Subcommittee process.

There was a question from a member of the public, Jack Prior, asking how the sequencing of the work would be done. In response, Councilor Baker said they would work on what are relatively non-controversial provisions first and then go forward with the more controversial issues. There will probably be one Home Rule petition for a special act of the legislature to change the Charter with any changes unless there is a clear reason for more than one such petition. The point is to capture what has been usefully done by the Charter Commission, then advance those matters to the full City Council for review and decision about what would be in a Home Rule Petition.

The Chair asked that the Charter Commission website be maintained so that it can be referenced through this process. The reports and information from this Subcommittee should also be made available online.

Meeting adjourned.

Respectfully Submitted,

R. Lisle Baker, Chair

APPENDIX

PREAMBLE

We, the people of Newton, in order to reaffirm the customary and traditional liberties of the people with respect to the conduct of our local government, adopt this charter with the expectation and intent that the charter will continue and enhance the city's strong traditions of active voter participation; ethical, transparent and responsive leadership; wise use of public resources; respect for all in the community; and an engaged populace. We expect and intend that our government will be welcoming and inclusive and will promote equality and respect for all people.



Charter Subcommittee Report

City of Newton In City Council

Wednesday, March 21, 2018

Present: Councilors Baker (Chair), Krintzman, Kalis and Albright

Also Present: Councilor Rice

City Staff Present: Sue Dzikowski (Comptroller), Karyn Dean (Committee Clerk)

The Subcommittee began its review of Articles 1, 3, 5 and 6 of the Charter and the Charter Commission's recommendation.

Preamble:

Councilor Baker noted that the proposed preamble to the Charter was accepted by the subcommittee at the last meeting.

Article 1: Incorporation; Form of Government; Powers of the City

The subcommittee reviewed Article 1 and accepted proposed language for all sections. The proposed changes were clarifying in nature and not substantive.

Article 3: Executive Branch

SECTION 3-1. Mayor; Election; Term; Compensation

The subcommittee accepted the proposed language in Section 3-1 (a), (b) and (d). The proposed changes were clarifying in nature and not substantive.

The subcommittee agreed to defer Section 3-1 (c), which deals with term limits of the Mayor, until the fall as a more substantive discussion is necessary.

SECTION 3-2. Executive Powers; Enforcement of Ordinances; Assistants

The subcommittee accepted the proposed language in Section 3-2 (a). The proposed changes were clarifying in nature and not substantive.

The subcommittee also agreed to change the word "Assistants" in the heading of Section 3.2. to "Staff" in order to track with the same change in language accepted in Section 3-2 (a).

Section 3-2- (b) was deleted by the Charter Commission and in its place, the role of Chief Administrative Officer was added. Councilor Krintzman explained that role of the Chief Administrative Officer has varied under each administration. Even the title has changed from time to time from Chief Administrative Officer to Chief Operating Officer. The Charter Commission felt the position should have particular recognition with a particular term stated in the Charter. This would ensure some consistent level of professional management within the City.

Councilor Baker questioned whether this should be in the charter or in an ordinance. Charter provisions are much more difficult to change than ordinances and there could be some unforeseen situation where there might be a desire by a new administration to fill this role with someone without the particular qualifications stated.

Members of the subcommittee were not opposed to the role of the Citizens Assistance Officer. There were questions as to how prominent the role was, how much the 311 system was coming into effect and the need for this recognition in the charter. The Charter Commission felt that this is a very important role and would be up to each mayor as to how it should be employed. Councilor Baker said this role has been very valuable and there was a feeling in the subcommittee that there should be language relative to citizens assistance and the language should be reviewed further.

The subcommittee agreed to further study and review language relative to both the Citizen's Assistance Officer and the Chief Administrative Officer offered in Section 3-2 (b). While it favored retaining some reference to citizen's assistance and the addition of a reference to a Chief Administrative Officer, it would like more time to consider alternate language.

SECTION 3-3. Appointments by Mayor

The subcommittee accepted the proposed language in Section 3-3 (a) and (b). The proposed changes were clarifying in nature and not substantive.

The subcommittee provisionally accepted the proposed language in Section 3-3 (c) provided the Law Department confirm that this language was added to codify provisions that had previously been adopted through home rule legislation, accepted by Newton, and did not represent a substantive change.

Clerk's Note: After consultation with the Law Department and Councilor Krintzman, Councilor Krintzman recalled that the language in Section 3-2 (c) was not related to any Home Rule Legislation, but was instead existing language relocated to Section 3 from Section 11-2 of the Charter, as follows:

"Sec. 11-2. Appointments and Removals. All officers and city agencies shall, subject to the laws of the Commonwealth relating to the civil service, appoint their subordinates and employees to hold office until they are removed by the officer or city agency under whom they serve; but all appointments in the Police and Fire Departments shall be approved by the mayor, who shall also have the power of removal in said departments."

The subcommittee accepted the clarifying language in Section 3-3 (d) as well as moving language relative to the City Council rejecting appointments by the Mayor with a 2/3 vote into a new Section 3-3 (e).

The subcommittee noted that appointments by the mayor of city officers and department heads take effect within 30 days unless the City Council rejects the appointment within that timeframe. For mayoral appointment of volunteer members of boards of commissions, that timeframe is 60

days. Both, however, would require a 2/3 vote of the city council for rejection. This is not a change from the original; the subcommittee was just noting the difference. There was some question as to whether the 60-day timeframe was being followed. The Clerk noted that the 60 days is counted from the docket date. Appointments are always scheduled within that period for City Council review. Practice has been for the appointees to be able to serve after the City Council has voted approval. The Charter seems to state that the appointments should not take effect until 60 days from the Mayor's appointment, however. This should be discussed as well as whether the 30 and 60 day timeframes should be uniform.

Section 3-3 (f) which discusses appointment to multiple member bodies needs to be discussed in more detail.

The subcommittee accepted the clarifying language in Section 3-3 (g).

The Charter Commission recommended deletion of the former Section 3-3(b) which reference the appointment of a collector treasurer. This reference was overly detailed, unnecessarily detailed and did not seem to mesh with the rest of the language which gives a lot of discretion to the Executive branch. Councilor Baker said there was some sense that the treasurer needed to be financially independent of the executive and he thought the way it was solved was to make the treasurer part of the city. The treasurer is appointed by the mayor but confirmed by the council. It was noted that the trend now with most new charters is to have consolidated financial functions such as treasury, assessors and comptrollers all consolidated and under the aegis of the mayor. Councilor Baker did not see any powerful reason to retain the reference to the treasurer as it seems to have been moved into the executive department.

The subcommittee will continue the review of these Articles at their next meeting.

Meeting adjourned.

Respectfully Submitted,

R. Lisle Baker, Chair

PREAMBLE

We, the people of Newton, in order to reaffirm the customary and traditional liberties of the people with respect to the conduct of our local government, adopt this charter with the expectation and intent that the charter will continue and enhance the city's strong traditions of active voter participation; ethical, transparent and responsive leadership; wise use of public resources; respect for all in the community; and an engaged populace. We expect and intend that our government will be welcoming and inclusive and will promote equality and respect for all people.



Charter Subcommittee Report

City of Newton In City Council

Monday, April 9, 2018

Present: Councilors Baker (Chair), Krintzman, Kalis and Albright

City Staff Present: Sue Dzikowski (Comptroller), Jonathan Yeo (Chief Operating Officer), Karyn Dean (Committee Clerk)

The Subcommittee continued its review of Article 3, 5 and 6 of the Charter and the Charter Commission's recommendations. Please refer to redlined Charter language, attached, which tracks the Charter Commission recommendations and the recommendations/comments of the Charter Subcommittee.

Article 3: Executive Branch

SECTION 3-1. Mayor; Election; Term; Compensation

Section 3-2-(b) Jonathan Yeo, Chief Administrative Officer, stated that he spoke with Mayor Fuller and Maureen Lemieux about the Chief Administrative Officer and Citizens Assistance Officer positions and their place in the Charter. They observed that each administration has organized the Mayor's office in their own way using different titles for positions. While the positions, are important, they did not feel specific titles should be written into the Charter. There should be some latitude given to a Mayor to define the roles.

Councilor Krintzman said the Charter Commission felt that from a citizen perspective there could be confusion from one administration to next who the Chief Administrative or Operating Officer might be and their role. Perhaps the qualifications do not need to be written into the Charter, but the problem the Charter Commission was trying to solve was to make it clear to the public to provide predictability.

Councilor Baker said he would work with the Committee Clerk and draft language that will reference the roles, but not specific titles for review at the next meeting.

Section 3-3(h) Councilor Krintzman said the Charter Commission recommended this new language to address the problem of unfilled vacancies on boards and commissions. The language is intended to provide transparency rather than demand a stringent timeline for reporting vacancies. This is also a way to have an ongoing review of boards and commissions to determine if they are still necessary or productive. Councilor Kalis felt that reporting the vacancies should take place more frequently than once a year, as proposed. Councilor Baker would like to add that the listing of the vacancies should be made available not only electronically, but also by other means for those who may not be using computers. The subcommittee agreed to that amendment.

Councilor Albright also noted that members of boards and commissions would often continue serving even though their official appointments had expired. The practice has been that members continue to serve until a successor is appointed. She did not agree this was a good way to do this. When terms expire, there should be either re-appointments or new appointments. Anne Larner, former Charter Commission member, agreed that while this is a problem, the Charter Commission did not focus on that. They focused more on the vacancies. Councilor Baker said this would be a new language and since this Subcommittee is focusing on the Charter Commission's recommendations, this is something that could be put aside and looked at again.

SECTION 3-5 Removal of Officials; Vacancy Notifications

Councilor Krintzman explained that this language refers to more critical positions such as department heads or city officers. The Charter Commission felt that there should be a more stringent timeline on notification of vacancies of any of those critical positions and suggested 48 hours. Councilor Baker wondered if the 48 hours could be problematic due a holiday weekend for example. Others noted that notification can easily take place via email. The subcommittee accepted the changes in this section.

It was noted that "city officer" is not a defined term in the Charter. Councilor Krintzman explained the Commission was working from the definition of "city agency", which was defined as board, commission, committee, council, department or office, and the two that seemed to be crucial for this section were departments and offices and derived "city officer" from that.

SECTION 3-7. Communications to the City Council; Calling of Special Meetings of the City Council

Section 3-7(a) The Charter Commission proposed changing the timeliness of providing a complete report on the financial and administrative activities of the city for the preceding fiscal year from "time to time" to "not less frequently than semi-annually". The Commission also added providing a "full disclosure of municipal revenues and all information related" to the financial condition and future needs of the city..."

Sue Dzikowski, Comptroller, pointed out that it is the Comptroller who provides this financial information and not the Mayor as stated in the current language of the Charter. She said that the fiscal year ends on June 30th, however, books continue to be closed over the summer. A recap is not available until at least September, so the providing the information within 6 weeks, which is the current requirement in the Charter, is not possible, in her opinion. She would like to have language that could be problematic with any extenuating circumstances that may arise. For example, the City is about to launch a new financial accounting system. Newton has a bond rating and the institutions will not rate the City without financial statements. The financial product that comes through the auditing process takes many months. The audit firm is attending the Finance Committee to discuss the results of their audit. Councilor Baker asked if there should be a requirement that there be a public statement on the City's financial situation, in the Charter.

Councilor Krintzman said that the Charter Commission wanted transparency and wanted to have that financial information provided at reasonable intervals. Ms. Larner said the current Charter or the proposed language from the Commission was not referring to audited financial statements. This is a reference to providing the council and the citizens with the current financial conditions of the City at that point in time. No one could expect audited financial statements within 6 weeks.

Councilor Baker asked Ms. Dzikowski to look at this language in more detail, perhaps with the Chief Financial Officer, and with the Chair of the Finance Committee.

SECTION 3-8. Adoption of Measures; Mayor's Veto.

The proposed language in this section is for clarifying purposes and is not substantive. It adds a reference to Article 10, which references certain subjects that cannot be brought up at certain times. The subcommittee accepted the proposed language.

In the second paragraph of this section, there is a reference to what constitutes a 2/3 vote when voting on a vetoed item. Councilor Baker noted the proposed language changes the current regime. Currently a 2/3 vote is considered 16 of 24 votes. The proposed change states that a 2/3 vote is 2/3 of council *then in office*. Councilor Krintzman said if there were 5 vacancies on the City Council, should the system operate such that 2/3 of the 19 is needed for a successful vote, or 16 of the 19 members. Vacancies refer to empty seats, not absent Councilors. The Charter Commission felt it should be the latter. Vacancies should be independent of the City Councils ability to act. Councilor Baker said this language would not apply for zoning or special permit votes. Ms. Dzikowski was not sure what the scenario would be for a bond vote, but she would check. The subcommittee agreed that the 2/3 calculation should be based on 24 Councilors.

SECTION 3-10. Vacancy in the Office of the Mayor

Section 3-10 (a) and (b) Councilor Baker explained that in the current charter, the Council elects an acting Mayor as the first order of business, and if it does not act, then the President or the Vice President become acting Mayor. The proposed language reverses that presumption so that if the President and Vice President are not able to serve, then the Council may elect someone. This is a major change because it gives more authority to the President and Vice President and it is a policy shift. Councilor Krintzman said that spelling this out, the City Council knows that when they are voting for President or Vice President that there is the possibility they could be Mayor and could be advantageous is that person is running for Mayor to permanently fill the position.

Also, the proposed language requires a special election within 150 days. For example, when Mayor Mann died, this language would have required the special election in the summer, when many residents are not in town. The City went to court and a Home Rule Petition was put forth which allowed the mayoral election to be delayed and tacked onto the regular upcoming state election. Councilor Krintzman said the Commission was trying to balance the urgency of getting the position filled and also providing sufficient time for residents to know the candidates and that the election was held at an appropriate time of year. They looked at other Charters and timelines, looked at overseas ballots, getting balanced printed, etc. Even after all this, if this put an election in the

summer, a home rule petition could remedy that problem. The Commission felt this language was the most inclusive and workable. Rhonna Kidwell said the 150 days was meant to be broad enough to extend past the summer if necessary.

This section requires further discussion.

There is a question as to whether there should be this timeframe provision. The Charter Commission felt using “forthwith” is too ambiguous. The subcommittee agreed.

Meeting adjourned.

Respectfully Submitted,

R. Lisle Baker, Chair



Charter Subcommittee Report

City of Newton In City Council

Monday, April 30, 2018

Present: Councilors Baker (Chair), Krintzman, Kalis and Albright

City Staff Present: Sue Dzikowski (Comptroller), Jonathan Yeo (Chief Operating Officer), Karyn Dean (Committee Clerk)

Also: Former Charter Commission members Anne Larner, Brooke Lipsitt and Rhonna Kidwell

The Subcommittee continued its review of Article 3, 5 and 6 of the Charter and the Charter Commission's recommendations. Please refer to redlined Charter language, attached.

Article 5: Financial Procedures

Anne Larner noted that the Charter Commission consulted with key people in the administration, City Councilors, and consultants in preparation for their work on Article 5. The two consultants were quite experienced in Charter changes in the state. Discussions with Ruthanne Fuller, David Wilkinson and Deb Crossley provided the Charter Commission with information on various financial aspects of the City and the consultants provided best practices and language from a number of Charters that had been amended or created in the last 15 years. Many Charters had requirements for a 5-year forecast, as well as consolidation of some financial offices. It was noted that Newton was unusual because of the separation of the Comptroller reporting to the Council, and the Treasurer and the Assessor reporting to the Mayor. That model is against current trends and the consultants strongly suggested Newton consolidate those three offices under the Executive Department. Ms. Larner did not make that recommendation, however, to the Charter Commission. She felt the balance of power between the City Council and the Mayor was working well and the Charter Commission agreed.

SECTION 5-1 Financial Condition of the City

Ms. Larner explained that the Charter Commission felt that Newton had been doing very good work in the last 8 years reporting the financial condition of the City. They wanted to codify those efforts in the Charter in order to maintain the quality of that reporting and provide consistency and transparency going forward. The recommendation was to add a requirement for a 5-year forecast. Mayor Fuller, David Wilkinson and Maureen Lemieux saw some issues with the draft and changes were then made.

Councilor Baker asked if there were any questions. The last sentence of Section 5-1 reads as follows: "The Mayor shall submit the forecast to the City Council at least 6 months prior to the Mayor's submission of the next fiscal year's operating budget and shall make the forecast available to the public for inspection." It was questioned if that meant every six months and the response was no; it would be once a year. There were no further concerns.

SECTION 5-2 Submission of the Budget; Budget Message

Brooke Lipsitt discussed money in the budget for legal assistance for the City Council. She noted that during her tenure on the Board of Aldermen there were one or two occasions when the Mayor's office and the Board had very different interests. Since the City Solicitor works for the Mayor, the interpretation of the City Solicitor was more likely to support the Mayor's point of view. Given that situation, Ms. Lipsitt suggested that the City Council be allowed to solicit counsel separate from the City Solicitor in the rare circumstance where it may be necessary.

Ms. Kidwell and Ms. Lipsett agreed that the provision would be more of a safety net in the case of a big disagreement between the executive and legislative branches, and would not be intended as an ongoing tool. Councilor Albright was concerned that the provision could be abused.

There are two other places in which the Charter references legal assistance. One is in the transition section that said the amount of the fund would be set at 2% of the proposed budget for the city Law Department. The Charter Commission recommendation in Article 2, Section 2-8(d) states that:

"The City Council may obtain legal assistance on any issue being examined by the Council relating to its duties under the Charter provided that the Council rules establish a process for the selection of such assistance. Any material produced by the attorneys for the City Council, whether in document or electronic form, shall be clearly and prominently labeled as "Advisory to the Newton City Council." The same statement shall appear on any materials printed or distributed in electronic form at City Council meetings, other public meetings, or in any other public venues. Copies of all materials produced by the attorney shall be provided by the City Council to the City Law Department and the Mayor at the same time such materials are distributed to the Council members"

It was noted in this section that the City Council rules would establish a process for electing to use legal assistance. The Charter Commission did not want the Charter to be specific as to how and when legal assistance could be used – instead, it would provide for the funds and the Council rules would determine the rest. This would have to be something that was requested by the Council as a whole and would need to rise to the level of significance that would warrant Council action.

The theme that runs through the recommendation is the balance of power between the Executive and Legislative branches, and in this area the City Council was at a serious disadvantage. Councilor Baker said there were circumstances in the past when it would have been helpful to have independent advice and feels there is value in having that option available.

It was asked why the Charter needed to state that the funds be in the budget for this independent counsel. The Chair stated that it was intended as clarification because not only did the Council need the authority to hire counsel, it needed the funds to do so.

Mr. Yeo felt the acting City Solicitor should be heard from. It could have the potential to set up a divisive situation between the Council and the administration. Council Baker agreed that the issue should be held until Ms. Young could speak directly to it.

SECTION 5-4 Capital Improvement Programs

Ms. Lerner said the Charter Commission recommended that the Capital Improvement Plan be accompanied by an inventory of the significant capital assets in the City. This would include buildings and other infrastructure, movable equipment, etc. The recommendation could facilitate a significant improvement in the capital planning process and would provide context when the Mayor was proposing, and the City Council was considering, capital expenditures.

Councilor Albright said this was a huge piece of work and would require an ongoing effort for it to be useful. Using the inventory as a baseline for making decisions seemed like the right way to go. Councilor Krintzman was concerned that the CIP and the Capital Inventory were very large bodies of work that would require cross-referencing for accuracy and consistency. He agreed this would require a tremendous amount of work. Mr. Yeo also agreed and noted that it would involve a very substantial effort across all departments and might require the creation of a small department to handle. Departments have their systems for coming up with capital investments, but creating a list to the detail proposed is too much.

Ms. Dzikowski said there is a full fund set aside for capital assets that is audited each year. The Comptroller maintains very comprehensive spreadsheet for depreciation purpose that is updated each year. Compiling a detailed capital inventory may require more resources than it might be worth.

Mr. Yeo was concerned that the proposal as stated, *“The City Council shall by Ordinance establish the requirements of the inventory, such as age, condition, and maintenance and repair history.”* is the City Council micromanaging the operations and maintenance of the City to a great detail.

Councilor Albright wondered if a compromise might be found. The Capital inventory of the city deteriorated over the years and continues to do so, but at least there is now a list and a rating scale. Perhaps the proposal is too detailed, but doing nothing is not good either. Councilor Krintzman noted that conducting the initial inventory would be a larger endeavor but updating it early would not be as onerous.

Councilor Baker recommended holding this question and asked the Chief Operating Officer, Comptroller and the Chair of Public Facilities to talk about this further.

Article 6: Administrative Departments

SECTION 6-1 Reorganization Plans

Councilor Krintzman noted that the current Charter provides an opportunity for the City Council to propose reorganizations. The Charter Commission's recommendation is to remove that opportunity. Councilor Baker said that merging departments would still require an ordinance even under the current Charter and would still require the Mayor's signature and would require sixteen votes. He would recommend this proposal be accepted.

Article 3: Executive Branch

SECTION 3-5. Removal of Officials; Vacancy Notification

Mr. Yeo felt that that the 48 hour notification limit was too short. The Committee recalled discussing a change to perhaps 72 hours. This will be discussed at the next meeting.

Meeting adjourned.

Respectfully Submitted,

R. Lisle Baker, Chair



Charter Subcommittee Report

City of Newton In City Council

Wednesday, June 20, 2018

Present: Councilors Baker (Chair), Krintzman, Kalis and Albright

The Charter Subcommittee continued its review of the Charter Commission recommendations to determine which matters could be recommended to the Programs and Services Committee and ultimately to the City Council.

Article 7: Planning

Councilor Krintzman explained that one of the challenges the Charter Commission had was that there are multiple sources for the current planning laws in the City. Much of what was recommended was the result of codifying the existing laws from other sources including a Special Act, and putting them in the Charter.

SECTION 7-2 Comprehensive Plan

7-2(b) references how regularly the Comprehensive Plan is changed, reaffirmed, or modified. The consensus of the Charter Commission was that each new Mayor may want to take a fresh look at the Plan. A requirement was added that a newly elected Mayor shall submit a modified or reaffirmed Plan within 2 years of taking office. This ensures that the Plan is being looked at closely on a regular basis. Practically, the Planning Department would be working on modifications, but the reference to Mayor includes any representative that the Mayor may delegate. The Plan would then have to be endorsed by the Mayor and submitted to the City Council. This provision would not necessarily apply to a re-elected Mayor.

7-2(c). "The ordinances of the city, including but not limited to, the zoning ordinances, shall be not inconsistent with the comprehensive plan." Councilor Baker noted that the term "not inconsistent" was less restrictive than "consistent". The Comprehensive Plan should work with the ordinances so they are not in conflict with each other. The general model in Massachusetts is that while there is a requirement that cities go through a planning process, there is no legal requirement that there be consistency with the Comprehensive Plan. This provision would add some level of consistency. If an ordinance is passed, it would be deemed to be the equivalent of a modification to the Comprehensive Plan. There is no measurement of one against the other in the sense of legal validity. He said that sometimes the Comprehensive Plan is being held out as a vehicle to protect against zoning changes that you would not be in favor of. If someone who is in a favored position wants to change the zoning to be more favorable, it could be said that the changes are not consistent with the Plan. The question is do you make it legally enforceable? It is a change as opposed to a recodification or clarification which none of these provisions are.

Councilor Baker summarized that the two policies that need to be reflected on are the requirement that a new Mayor to endorse the Comprehensive Plan, whether modified or reaffirmed; and the requirement that the zoning ordinances be not inconsistent with the Comprehensive Plan.

Councilor Baker said the general model is that Special Acts control over general laws. He asked if the Charter Commissioner was given guidance by the Law Department about which has control. If Newton is operating under a Special Act for planning purposes, is the Charter in conflict with the Special Act. Councilor Krintzman said there was very significant overlap between the Special Act and MGL41b. Councilor Baker said he wanted to be sure there were no inconsistencies and to determine which controls – the Special Act or MGL. The basic point is that the Plan should be following what state law requires. He likes that the Charter Commission added things to the Charter that apply to the City, he just wants to be sure the right source is being referenced.

It was stated that people could use the comprehensive plan to meet whatever objectives or needs they are looking for. It can be interpreted many different ways.

The recommendation that the new Mayor reaffirm or modify the Comprehensive Plan was to provide a mechanism whereby there would be more frequent review because it should reflect the changing dynamics within the City and a vision for the future of the City.

Rena Getz said she does not want someone recently elected to be in the position to significantly change the Plan. She would like to see the Plan disassociated from the Executive Office. It was pointed out that any Department within the City who might then work on it, is still under the purview of the Mayor. She added that she would prefer a 10-year review.

It was noted that there was discussion in the Charter Commission about a 10-year review. Brooke Lipsitt stated that her concern was that an arbitrary number of years could coincide with the end a term of a Mayor or the beginning of a term of the Mayor, both of which seem inappropriate timing for review. The former because by the time the project was done, the Mayor may not be in office anymore and the later because a brand new Mayor has many things that are really time sensitive on his or her plate. Every new Mayor actually has to own the document. That does not mean that the new Mayor would not convene a large group of expert and interested citizens the way it was done ten years ago, and it does not mean that the City Council would not get the opportunity to have its hearings and hear again from members of the public. The proposed language for review had a logic to it that she felt was good.

On the consistent and inconsistent language, under the current state model, the City Council gets to rethink the Comprehensive Plan every time it considers a Zoning Ordinance. It is modifying the Comprehensive Plan, ordinance by ordinance. Some were concerned that there is a strong likelihood that one would end up without a usable Plan by taking little pieces of it and changing it. Ordinances tend to be addressing specific problems, for example, what kind of development are we going to put in village centers.

Councilor Baker felt the Mayor should be the proposer of the Plan and not have it disassociated from the Executive Department. He asked the subcommittee members about the provision that says the Plan should be revisited either by reaffirmation or amendment by a new Mayor. It was noted that the plan is being constantly modified.

Councilor Baker is cautious about adding into the document a consistency or inconsistency requirement, because he felt it should be a guide. The Planning Dept and the Plan itself has persuasive power. He is nervous about empowering a whole litigation issue. A tricky question is if the plan is being amended, and including not inconsistency, he does not want the question of what something is not inconsistent with. That becomes a whole issue in itself. He is in favor of the proposed language for Mayoral review and would like to clarify that any reference to the Comprehensive Plan means the Plan currently in effect. He is not support of adding the inconsistency language.

Councilor Albright said that because the Comprehensive Plan has been regularly updated, she feels better about using the “not inconsistent” language. “Not inconsistent” is very vague language. She asked how different language that language would be from language about having the Plan serve as a guide. Councilor Baker said a guide is not something that would give rise to grounds for litigation. Using consistency in any context is opening an opportunity for someone to sue on the grounds that it is not inconsistent.

Councilor Kalis said he likes the language that references the Comprehensive Plan as a guide better than the “not inconsistent” language.

Councilor Baker explained that Section 7-3(b) deletes the reference to urban renewal because it is currently included in state law. It was also noted the City does not have urban renewal programs and also the term is anachronistic as well.

The Subcommittee agreed on the following for Article 7:

- Adopting all of the Charter Commission recommendations in 7-1 and 7-2 with the exception of 7-2(c)
- Retaining existing language in 7-2(c) but delete the words “urban renewal programs”
- Adopting all of the Charter Commission recommendations in 7-3 but amending 7-3(a) which states: “reflecting the intent of the city’s comprehensive plan” to “reflecting the guidance of the city’s comprehensive plan” for consistency
- Consulting the Law Department for clarification of the Special Act and the MGL relative to control

Article 8: Nominations and Elections**SECTION 8-1 Elections**

Councilor Krintzman explained that the signature thresholds for nominations were not changed, however, they wanted to reflect the signature thresholds for City Councilors based on their recommendation of a 12-member City Council made up of Councilors by Ward and Councilors at Large. Councilor Albright noted that if some changes occur after this Subcommittee reviews the make-up of the City Council, this section may need to be revisited.

SECTION 8-1(d): Information to Voters:

Councilor Krintzman explained that there is a provision in the current Charter that allows an 8-word statement about current and previous offices held to be included on nomination papers for preliminary elections or special elections. This provision has not been used consistently and the Charter Commission recommended removing it. It was noted that there is only one set of nomination papers and then there is either a preliminary election or not depending on the number of candidates.

Ms. Lipsitt thought that having information on nomination papers such as being a former congressman, or belonging to a church or group or schools, or whatever, seemed to make the process less egalitarian. This information does not go on the ballot so there is no need for it to go on nomination papers.

Councilor Krintzman noted that other changes in these sections were just clarifying in nature and removed some redundancies. Some information from 8-2 and 8-3 was revised and moved into Section 8-1.

Sue Flicop mentioned that a preliminary election, along with its expense, may not always be required if there was only one extra candidate, for example. She suggested looking at other options. Ms. Lipsitt noted that the Charter Commission discussed rank-choice voting on several occasions. They decided against it because it encourages non-majority winners. Councilor Krintzman said the City would always have the option to seek home rule petition to forego a preliminary election.

SECTION 8-4; Special Elections

Councilor Baker would like to take another look at the language and the timing proposed here in order to be sure there are no potential scenarios that may not work.

SECTIONS 8-5, 8-6, 8-7

The changes were clarifying language and not substantive.

The Subcommittee agreed to all Charter Commission recommendations in Article 8, noting that Section 8-1 may need review pending decisions about the composition of the City Council, and further review of Section 8-4 as noted above.

Article 10: Free Petition, Initiative and Referendum

Councilor Krintzman noted that this Article was reorganized for ease of reading and clarity, but there are also updates in regards to signature thresholds that are more in line with several local and state laws. Reference to the special act allowing non-binding questions to be added to the ballot was moved into this section as well.

Ms. Lipsitt said Newton's Charter was one of the early home rule Charters and much of the process was "made up" Since then, many other Charters have been written with a more modern way to do this, so the Charter Commission felt it was best to start with a clean state in terms of form.

The initiative petition is when someone from the public requests a new law, and the referendum petition is asking for the reversal of a law. The current Charter requires 50 signatures for an initiative petition, while most communities require 200 to 250. The Charter Commission recommended raising the threshold to 200.

The signature threshold for a request for a public hearing, without a proposal for an ordinance, was increased to 100 from 50. Most communities require 100-150. There is also a requirement that the public hearing be published and that the first 50 signers of the request be individually notified. That requirement was reduced to 10.

The Charter Commission did not recommend changing the timeframe allowed for getting additional signatures for an initiative petition to six months. There was a discussion about whether to shorten that, but they ultimately felt the time was needed to talk to the public, especially if something were happening in the summer month

The Charter Commission did recommend adding a requirement that if there is an initiative petition, that it would require 20 percent of the registered voters to participate. For instance, if there are 50,000 registered voters; 10,000 would have to vote on that item, otherwise it would not be considered valid.

The Charter Commission also made a recommendation was to remove the Mayor's ability to veto a referendum or an initiative petition that was accepted by the Council. It makes no sense for the Mayor to overrule that and send it to a vote. An initiative petition is the public bringing an item to the Council and if the Council adopts it, then the Mayor should not be able to veto it.

Councilor Baker asked about the provisions for two ballot questions on one ballot. The current Charter states that if two ballot measures are on a ballot, the one with the most votes, wins. Councilor Krintzman states that Section (10-14) was not changed by the Charter Commission

Councilor Baker said there are two substantive changes that are important – the voter threshold and the veto power of the Mayor. The other changes are consolidations and clarifications. The Subcommittee accepts the consolidations and clarifications, but would like to discuss the other issues further.

Meeting adjourned.

Respectfully Submitted,

R. Lisle Baker, Chair



Charter Subcommittee Report

City of Newton In City Council

Tuesday, July 17, 2018

Present: Councilors Baker (Chair), Krintzman, Kalis and Albright

The Charter Subcommittee continued its review of the Charter Commission recommendations to determine which matters could be recommended to the Programs and Services Committee and ultimately to the City Council.

The Chair would like to make sure that people understand that the City Council is not trying to reverse the residents' vote on the Charter. Many of the Charter Commission recommendations made sense and may be easier to capture and incorporate into the Charter via a home rule petition. The more controversial recommendations such as the size of the council and the question of term limits would be reserved for discussion in the Subcommittee at a later time. Any changes that might come from those conversations would be the subject of a second petition, but that would require voter approval in the next election a year from now.

Article 11: General Provisions

Councilor Krintzman noted there was some reorganization in Chapter 11 along with some additions.

SECTION 11-1 Public Records

Councilor Krintzman explained this is new language which explicitly requires city employees to follow state public records law (Chapter 268A). Councilor Baker said there is an exception to public records law for attorney-client privilege, which is not in the general laws but was a decision of the supreme judicial court. There is also an exemption for legislative privilege, which is under state law. There may be a need for some clarifying language because there is no reference to court decisions. He will speak with the City Solicitor about this.

SECTION 11-2 Conflict of Interest

(a) the Charter Commission had not found an explicit reference to the state conflict of interest law in the charter, so that was added here. The statute applies to municipal employees and includes municipal elected officials as well.

(b) and (c) enhanced (a) by adding some language about requirements that elected officials should not unduly influence or coerce the official acts of any city official. The Charter Commission discussed constituent services and wanted elected officials to be able to perform constituent services, which is why the sentence in (b) was added.

Councilor Baker noted that Chapter 268a speaks to the general conflict of interest where recusal and non-participation are required in a number of situations (involving family members, financial interest, etc.) There is also an interesting challenge as there is a section that states that that you should not act as an agent or attorney for someone in a matter in which the city has an interest. That is a very tricky line to cross because you can provide constituent service but if someone comes to you who is involved in a special permit process or a zoning variance that is more complicated. He would like to check with the City Solicitor on this.

It was asked what “unduly influence” means. Councilor Krintzman said that the Charter Commission discussed it as a matter of interpretation, like any court case would be. It is a legal standard. Councilor Albright said there would need to be examples of what this means. Councilor Baker said he would not like to create an opportunity for controversy and he has never seen an example of undue influence. Ms. Kidwell said the Charter Commission discussed this extensively and many members had examples of undue influence. There were multiple people with years of experience in city government who had experienced undue influence. Trying to help a constituent with their water bill is not undue influence but trying to get a water department employee fired because they would not cut down the constituent’s water bill would be undue influence.

Councilor Krintzman said there is a section in Chapter 268A which applies to all public officials that they should not gain for themselves or others “unwarranted privileges” and he is not convinced that the proposed Charter language here goes further than that. He felt this was akin to undue influence - inappropriate use of power is what they are getting at.

Chairman Baker said the reaffirmation of general laws is not troubling to him, but he would not like to create a new cause of action in a charter when it is unclear how it would be enforced. An ordinance would be more appropriate. He was in favor of (a), after consultation with the Law Department, but not in favor of (b) and (c) as part of the charter.

The Subcommittee agreed to keep (a) and omit (b) and (c), however, Councilor Baker will discuss (b) and (c) with the Law Department.

SECTION 11-3 Rules and Regulations

Councilor Krintzman explained that one of the Charter Commission’s themes was openness and transparency so that citizens can have more access to the workings of the government. One issue the Commission addressed was an inability to access rules and regulations throughout the city and so this provision is designed to require that those rules and regulations be filed with the clerk and then have the clerk post them and make them available electronically, all within specific periods of time.

Chairman Baker was concerned that (a) may be problematic because if the rules are not posted, it is unclear what the consequences might be. Would it mean they would not be in effect? He is concerned about having this bright line in the charter. He supports (b) but not (a). Councilor Krintzman said everything is electronic these days and it would be easy to just send an email to the City Clerk within a few days. He was not sure the remedy would be unenforceability. Most likely a court would just say go ahead and file the rules. Ms. Kidwell said it would be difficult for a resident

to adhere to a rule they did not have access to. Councilor Albright said this requirement needs to be somewhere if it is not in the charter.

Councilor Krintzman explained that the State Secretary publishes the register of rules and regulations on a bi-weekly basis. State Law says the rules and regulations take effect when the register is published, or later if a later date is specified. If the state can publish all the rules and regulations for all the statewide agencies, then Newton can do it. Chairman Baker said before we hand that responsibility to the clerk, he would like to ask Karyn Dean to confer with Mr. Olson because we want to understand what we are asking. It needs to be determined if she has the capacity and also to determine what is really fair to the citizens. If the clerk does not have the capacity, what is the alternative. The Chair used the Historical Commission as an example noting that if their rules were not published and therefore did not take effect because they were not published, that would be very problematic. He would like to consider this further.

The Committee will come back to (a) and approved the changes in (b).

SECTION 11-4 Reenactment and Publication of Documents

(a) Councilor Krintzman explained that language was clarified, and a provision was added about consistency with the Comprehensive Plan.

(b) There was a concern that there were antiquated boards and commissions that were no longer functioning. The Commission thought it might make sense to having a similar committee to the recodification committee to look at and make recommendations about which boards and commissions were still necessary. Paragraph (c) recommends that the recodification committee could also serve as the boards and commissions committee.

Rena Getz, Waban, said the Planning Department reviewed some boards and commissions and got rid of some. She did not know if this was an executive function and she is curious where the responsibility lies and whether it should go into the legislative branch.

Councilor Baker felt recodification is a difficult and specialized process. It takes a line by line reading of the ordinances and adding this task to that Committee would be burdensome. Some boards and commissions are maybe not doing very much, but he wonders if this belongs in the charter. It will be tricky because some are appointed by the executive and some by the legislative body. It was noted that some are created by statute and the City Council does not have discretion over them, so they would have to be excluded.

Councilor Kalis felt that there are many boards and commissions that have not been taken care of. He felt this provision was valuable to have in the charter because it forces the executive and legislative branch to look at them. There needs to be some mechanism to provide some oversight and to be sure the boards and commissions are reporting back to the executive/legislative branch. Some appointees feel they are working in a vacuum and they are out of the loop.

Councilor Krintzman noted that this is just a review and a recommendation and at a bare minimum, it will put a listing of boards and commissions in front of people. If there is some recommendation that someone does not like, there is a chance to speak to that. It will not have the authority to abolish anything. Ms. Kidwell said it is a chance to just review and look for duplications of effort and gaps that need to be filled as well as appointments that need to be updated. It is a chance to cull boards and commissions that do not really operate anymore. Councilor Kalis called the Farm Commission to come into Programs & Services and they said they did not think they needed to exist anymore. In the beginning there was a lot of work to do but there is nothing going on right now, but he wondered if maybe there might be something that needs oversight in the future so they decided to meet quarterly instead of monthly. His fear is that it could have been abolished when in fact it could be useful.

Ms. Kidwell said 75% of the boards and commissions are known entities and it is known that they are active and working well. The issue is with the few lesser known boards and it's unclear what they do, or how often they meet or if they are fully appointed. Rena Getz recommended limiting the number of boards and commissions that would be included in this review. Councilor Baker said pulling out some exemptions could be problematic.

Chairman Baker said he would be open to a docket item for inclusion of this provision in an ordinance. He was not ready to support this and add it to the workload of the Council. He felt there was value in review of the boards and commissions and felt that a recommendation could be made to that effect, but he was not comfortable putting it in the charter as a 5-year requirement. Councilor Albright suggested making it a 10-year review but Councilor Krintzman said waiting longer could make for more work than the 5-year review since there would be less to work through.

Councilor Albright suggested putting this aside for some consideration, perhaps in Programs & Services Committee, as a recommendation from the Subcommittee.

Councilors Krintzman, Kalis and Albright were all in favor of the concept. Councilor Baker wanted to consider this more and was not in favor of putting this in the Charter.

The reference to the Comprehensive Plan will be removed from Section (a) as that was discussed at a previous meeting. Section (b) was held for further consideration and Section (c) would be deleted.

SECTION 11-7 Meetings of Qualified Voters

This section was a provision about a meeting of qualified voters and the Charter Commission was unable to find any need of that provision so it seemed outdated and superfluous. Ms. Kidwell said it may have been related to something that was going on when the charter was drafted. No one really knows why it is in the charter. The subcommittee agreed to delete this section.

SECTION 11-~~8~~7 Construction of Public Facilities

Councilor Krintzman explained that this section revolves around Designer Selection Committee and Designer Review Committee and to some extent, school projects. There was a lot of work done on this which included consultation with Sydra Schnipper, Deb Crossley, Arthur Cohen, Peter Baher, Ouida Young, Steve Segal, and many, many others. The proposed language is designed to follow existing practice. There is a state requirement that if a city is going to get state funding for a school project, one of the members of the design review committee must be a member of the school committee. That provision was added for clarity. The subcommittee agreed to the changes in this Section.

SECTIONS 11-8, 11-9, 11-10. The Committee agreed to the small language changes in these sections.

SECTION 11-11 Computation of Time

The proposed changes included updated language that mirrored many, many charters being used across the commonwealth and the country. This was not a substantive change, just clarifying language. This language applies to time requirements in the charter only. The Chair would like to see, at some point what time periods are in the charter that this might affect.

The subcommittee agreed to the changes in this section.

SECTION 11-12 Uniform procedures

The definition of Multiple Member Bodies was added to the “Definitions” section as follows: “any board, commission or committee consisting of two or more persons whether elected or appointed or otherwise constituted but not including the City Council, the School Committee or an ad hoc or advisory committee appointed by the Mayor.”

(a) This language pertains to general rules of voting and quorums to be applicable to “multiple member bodies”. The proposed language applies to any municipal body unless that body has special rules. The current charter provides no default provisions for municipal bodies without special rules.

(d) Quorum. Councilor Baker noted that under the Charter Commission recommendation in this section, for example, the ZBA has 5 members so a quorum would be 3. In this situation, they would not be able to go into Executive Session unless those 3 votes were unanimous to do so. He would like to think more about that because there may be a need for executive session and perhaps it should be a quorum of those present at the time and voting so they could do so. Personnel matters, lawsuits and collective bargaining are typical reasons for executive session and there may be a legitimate need at that time to go into executive session. Ms. Kidwell said she, as a member of the public, would like to have some control over when a body can go into executive session and 2 out of 5 members should not have that power.

In City Council, open meeting law allows a vote to go into Executive Session, without necessarily having a super majority. It was asked if the Historic District Commission could go into Executive Session without posting that it might? Councilor Baker said he did not know the answer to that

that for sure, but others felt that it had to be posted on an agenda. Councilor Baker was uneasy about appointing a procedural requirement that is not part of the open meeting law.

Councilor Krintzman explained Executive Session under the open meeting law as follows: the body must first meet in an open fashion, the majority of the members of the body have to vote to go into executive session and the vote for each member has to be recorded by roll call and entered into the minutes. The chair has to state the purpose of the executive session and publicly announce when they will reconvene. Chairman Baker said he stands corrected but would like to think about the wording of this.

The state secretary published the register on a bi-weekly basis and state law requires that it will take effect when it is published, or later if a later date is specified.

(e) Public comment policy was an issue which was discussed several times. The Charter Commission was attempting to address the frustration of residents who might want to comment at any meeting whether it's the School Committee, City Council, etc. Residents wanted at least some predictability about when their comments would be accepted and felt a policy would be effective. Every body has to have a policy so that people can more accurately predict when they'll be able to comment. The Charter Commission did not want to set the policy, just require that each body have a policy that provides predictable and regular opportunities for public comment.

Margaret Albright said that School Committee's policy on public comment has been ruled to be admissible and that what they were doing was a violation of people's first amendment rights. She suggested that the Subcommittee check with the City Solicitor on this topic. Newton's School Committee allows 20 minutes of public comment at every meeting and that is practiced by every School Committee across the state.

Chairman Baker said he knows the school committee has entertained public comment and thinks the charter mentioned that its process allows 20 minutes at the beginning of a meeting for comments. The open meeting law gives the chair the opportunity to entertain comment but does not require it on a matter that is being discussed. He was a little nervous giving a general opportunity for public comment. The City is depending on volunteers to serve in a variety of boards and commissions. He could see that someone might volunteer to serve and but not want to spend 20-30 minutes at each meeting for general, public comment when there is business to do. He is uneasy about putting this in the charter.

Ms. Kidwell said the Commission approached this issue with the belief that public participation is one of the building blocks of democracy and it should be encouraged and supported. The Commission felt that was not happening right now in the City. She felt that if a resident wanted to make a comment at a meeting, had to sit through a couple of hours of discussions, has a babysitter at home and has no idea when or if she will be able to speak, is not a way to encourage participation. The School Committee's policy of allowing public comment is a way for people to know what to expect and be able to come and comment about any concerns. Ms. Kidwell said that written comments are considered public comment as well, so there should be an opportunity to let people know how to submit that.

Councilor Kalis said a general policy that can be developed by each committee/board, etc. is a good idea to allow public comment and to let people know when they will have that opportunity.

While the policy could allow for frequent or infrequent opportunities, he is not ready to recommend that this go into the Charter. If a board of commission or any body would like to have a policy, that is fine, but he does not think it should be imposed by Charter. If the language is changed to be permissive, that would be fine. He would like to work the Law Department on this to be sure they are within open meeting law. He is sensitive to the idea that the public have an opportunity to speak and to know when that opportunity would be, but he would like to make this discretionary for the body.

Bryan Barash supported this section and was a strong proponent of forming policies that provide predictability and opportunity. A public body should allow this and it is not too much to advertise, in advance, when that would be. Perhaps the policy would be that the opportunity will be before the meeting, after each item, or when the discussions are done.

Councilor Baker would like to keep the first sentence and add to it “and shall consider the convenience of the public when scheduling such public comment periods.” He would like to strike the next sentence and maintain the last sentence.

SECTION 11-13 Periodic charter review.

This section is basically what this charter subcommittee is doing right now and does not refer to a Charter Commission. The proposed language provides for a committee to be established by ordinance and leave it up to mayor and city council to determine composition. The charter review committee would then make a recommendation and it would be up to the City Council and Mayor to decide what to do with the recommendations.

Councilor Baker is not in favor of having this in the Charter. He thinks the issues this subcommittee are looking at should be settled, and settled for a while. He would not want things re-litigated every 10 years and an independent technical review can happen, as is happening now.

It was noted that this is not intended for big issues like changing the size of the City Council. It would be intended for changing things that might no longer be consistent with state law or other aspects that might need to be inserted or deleted.

Ms. Albright said the School Committee regularly gets bulletins from Mass Municipal with recommendations to tighten up their policy, procedures and rules to make sure they comply and align with state or federal laws as they change. She asked if the City gets those sorts of bulletins. Councilor Baker said they do recodifications and make other changes on their own for housekeeping. He does not support this.

Councilor Albright asked if other charters have this and Councilor Krintzman said they saw a 10-year charter review quite often in other charters.

Councilor Baker wondered if there would be a way to explicitly exclude issues that would be subject to referendum. There is nothing in the charter that says a vote of the electorate is needed

to change the size of the City Council, but it is the practice of the state legislature to say they will not pass a home rule petition on a matter of this consequence without a ratification by the voters. He would not want to create a mechanism to establish a second run at these types of questions. Councilor Kalis agreed with the concept of excluding matters of great importance like city council size.

Councilor Albright said that there should be a simpler way to make some changes without having to convene a full Charter Commission.

Councilor Baker said he would speak to the Law Department to see if there is a way to carve out exemptions. Ms. Kidwell said it would be unlikely that the City Council would like to change their entire structure every 10 years. Councilor Baker said the issue has come up several times, but he is in favor of a recodification process, just not a wholesale review.

Article 12: Transitional Provisions

SECTIONS 12-1 through 12-5 Subcommittee accepted changes.

SECTION 12-6 Disposition of Special Legislation

Councilor Krintzman explained that Home Rules Acts that the Charter Commission along with the consultant looked at the special acts in the City and recommended that some be retained and others repealed. Councilor Baker said he would like to spend some time offline to review the recommendations. The subcommittee agreed to hold this section for further review.

SECTION 12-7 Time of Taking Effect

This section speaks to the effective date of any changes to the Charter. This should be reviewed at a later time.

Article 4 - School Committee

SECTION 4-1 Composition; Eligibility; Election and Term

Councilor Krintzman said the Charter Commission basically kept the composition and term limits the same and updated the charge of the School Committee in accordance with updated state law. The Commission also updated and clarified the language on new school buildings.

(b) Eligibility. Councilor Krintzman explained that the residency date of eligibility to run for School Committee was tied to the availability date of nomination papers, which is generally sometime in May, but can be at a different time as well. That seemed too unpredictable and it made more sense to pick a fixed date. To be eligible for office, a candidate would have to be a resident of the Ward from July 1st of the year in which a regular election is held. This tracks with the proposed eligibility date for City Council as well. The Commission also wanted to provide as much opportunity as possible for candidates to run. If someone moved after the nomination papers came out in May, they would be ineligible. Allowing several more weeks allows more opportunity and is still a reasonable cut off before the preliminary election. There are provisions that allow a School Committee member or City Councilor to serve out their time if they move.

Councilor Baker said he does not mind a fixed date but wants that date to be earlier than July 1 so that candidates can understand what the factors may be in an election. Traditionally, papers are due at the end

of July and that seems like a burden. He suggested June 1 or May 1. Councilor Krintzman said would be amenable to June 1 so long as the City Council date is changed as well to be consistent.

Councilor Kalis was concerned with having enough time to collect signatures with this later date. Councilor Krintzman explained that if someone is contemplating a move to a different ward, they can collect signatures in that Ward as soon as nomination papers come out. This requirement speaks to residency only – not the date one can collect signatures. The candidate must move to the new ward by July 1 but does not have to wait until then to collect signatures.

Councilor Baker said he would suggest June 1 and speak to the City Clerk to be sure there is no conflict with that date.

Councilor Krintzman explained that the CC added new language prohibiting members of the school committee from holding any other elected office. The Subcommittee agreed to this provision, adding “public” prior to “elected office”. This will added to the City Council article as well.

Changes Paragraphs (c) and (d) were accepted by the Subcommittee.

SECTION 4-2 Rules of Procedure; Posting of Policies

Councilor Krintzman explained that there was sentiment that the policies of the school committee were not as public as they ought to be. That has changed recently, and they are all posted according to Margaret Albright. She noted that Newton was told by Mass Association of School Committees that it was out of compliance with Department of ??? CMR on this so it was required to make the changes.

SECTION 4-3. General Powers and Duties

Margaret Albright explained that Article 4 of the Charter was written pre-education reform. At that time, many powers were within the realm of the School Committee, however, with education reform many of those powers shifted to superintendents. The recommended language reflects those changes and brings the charter into line with state law.

SECTION 4-4. New School Buildings

This section was updated to reflect the role the School Committee actually plays in terms of new school facilities. Margaret Albright noted that in the past, Mayor’s have closed school buildings. She felt that it should be within the School Committee’s responsibility to decide if a building remains a school building or not and believed that MGL puts control of school buildings in the hands of the School Committee. She asked that the reference to MGL be added to this section. This would trump what is in the Charter. Councilor Baker said he is sympathetic to that issue, but the Subcommittee is just reviewing what the Charter Commission recommended and not considering new ideas.

This could be something to consider in the recodification process.

SECTION 4-5 Prohibitions

The Subcommittee accepted this language.

SECTION 4-6 Filling of Vacancies

Councilor Krintzman explained that the CC changed this language a bit, and also mirrored the language for the City Council. The “forthwith” language was taken up and changed to “at the next regular meeting”. The addition of (c) calls for a candidate to be a resident of the ware in which there is a vacancy as of the date a special election is called by the City Council. The Subcommittee agreed.

Jack Prior, Newtonville asked if there was any discussion about electing School Committee members by Ward instead of At-Large. People in wards would tend to know their fellow ward residents better than trying to learn about all candidates across the City. Councilor Baker explained they would not be taking up new issues in this review, as stated earlier.

Meeting adjourned.

Respectfully Submitted,

R. Lisle Baker, Chair



Charter Subcommittee Report

City of Newton In City Council

Thursday, October 25, 2018

Present: Councilors Baker (Chair), Krintzman, Kalis and Albright

The Charter Subcommittee continued its review of the Charter Commission recommendations to determine which matters could be recommended to the Programs and Services Committee and ultimately to the City Council. In particular, the focus will be on areas that the Subcommittee had flagged for further review and discussion. The Chair would like to get a report to the Programs & Services Committee of the recommendations on December 5th and hopefully to the full City Council by the end of the year. A Home Rule Petition would then be created. More substantial issues such as the size of the City Council and terms limit will be taken up in a second phase next year.

Definitions

The Chair noted that there were some definitions that would be dependent on amendments. For instance, if the composition of the City Council changes, the Councilor designations would change (Ward Councilor, etc.)

Multiple Member Body: The state constitution states that the default would be there would be an odd number of members to a body. If there will be something different, it needs to be stated. This definition excludes the City Council and School Committee, so therefore, they can have an even number of members. Councilor Baker noted that a number of Boards and Commissions might have an even number of members, which under state law would not be allowed. Councilor Krintzman said that without referencing the state law, it is a stand-alone definition in the Charter for the purposes of the Charter. This City is not required to use the state language, however, the Charter Commission used language that is being used in many other cities and towns.

Related to Multiple Member Bodies is Section 11-12: Uniform Procedures. These apply to multiple member bodies, so therefore, it has to be determined to whom those procedures apply. This brings us back to the definition, which excludes the City Council and School Committee, but does the definition by implication require an odd number of members to all other multiple member bodies.

Jack Prior said state law says municipalities have the discretion to adjust their Charter with the exception that all multiple member bodies have an odd number of members. It does not say multiple member bodies can be defined as a city or town chooses. Newton has the only even-numbered City Council. The Attorney General did not raise this in its review. The School Committee has an odd number when including the Mayor.

Summary of Action:

- Councilor Baker will check with the City Solicitor on the definition of Multiple Member Bodies and Section 11-12 Uniform Procedures as they relate to Multiple Member Bodies.

Article 6: Administrative Departments

Article 6-1 Reorganization Plan Clerk's Note: The Subcommittee thought this Section had not been reviewed, however, it was reviewed at the April 30 meeting and was accepted by the Subcommittee:

Article 6: Administrative Departments

SECTION 6-1 Reorganization Plans

Councilor Krintzman noted that the current Charter provides an opportunity for the City Council to propose reorganizations. The Charter Commission's recommendation is to remove that opportunity. Councilor Baker said that merging departments would still require an ordinance even under the current Charter and would still require the Mayor's signature and would require sixteen votes. He would recommend this proposal be accepted.

Back to the discussion:

Councilor Krintzman noted that the Charter Commission recommended removing reorganization plans presented by the City Council – they would only be allowed by the Mayor. Councilors Albright and Baker said they have never seen a reorganization plan proposed by the City Council. The Charter gives the Mayor the power to organize her own administration – the City Council could not come in and change her organization.

Kathleen Kouril Greiser said she was not sure why the City Council would want to give up that authority. Just because it has not been done thus far, there may be a reason for it in the future.

Another resident said that this could be a check on the executive for the city council to have some say on these matters. Some restructuring could have a wide impact on the budget and on the institutional knowledge in departments. The City Council controls the budget. Councilor Baker said he supposed if there was some rogue Mayor in office, it would be useful, but cannot imagine that situation.

It was noted that the City Council can not add money to the municipal budget – it can only take money away, therefore, trying change the organization in a way that would increase a budget could not happen. The City Council has independent authority to organize and hire their own staff.

Summary of Action:

- Councilor Baker asked any historic information could be found as to why the reorganization power was given to both the executive and legislative bodies. This will be held for now.

Article 10: Initiative and Referendum

Councilor Krintzman said this Article was reorganized quite a bit, but there were not many substantive changes.

The major changes were:

Section 10-1 Group Petitions and Section 10-2 Initiative Measures

- Increasing the number of voters necessary to put a petition before the City Council from 50 to 100; and increasing the number of voters necessary for an initiative petition from 50 to 200. These were typical numbers in other municipalities and Newton's number of 50 was quite low. The Subcommittee accepted these changes.

Section 10-5 Required Voter Participation

- Voter participation currently has no provision in the current charter relative to initiatives (request for a new law) or referendums (request to repeal a current law). The recommendation would be to require that an initiative or referendum would need at least 20 percent voter participation in order for it to take effect, if approved. Many municipalities have this requirement. The 20 percent number would be calculated from the number of voters as of the most recent regular city election.

It was noted the referendum petitions are extremely infrequent and wondered if an additional threshold should be added. It is hard enough to get a referendum or initiative on the ballot to begin with, and Councilor Baker felt that for off-year elections, approximately a 20% total turnout is typical, but can sometimes be challenging to even reach that level.

It was asked if the Charter Commission saw a history of problems with low voter turnout on referendums or initiatives. Councilor Krintzman said they did not look at specific examples of past elections, but rather the Charter Commission was trying to set general policy that would make sense moving forward for the City, and part of that process included looking at other municipalities for general trends in those policies. He noted that in 2011, there was 18.2% voter turnout and in 2007 there was 17% voter turnout – every other municipal election reached at least 20%. Councilor Albright asked if they found any examples in other municipalities where this provision was invoked, and a question was nullified. The Charter Commission members present did not recall.

Councilor Krintzman was in favor of adding the 20% voter requirement, Councilor Albright abstained because she wanted to know if this has been useful in other communities, and Councilors Baker and Kalis were opposed. The Subcommittee is not going to support this amendment at this time.

Section 10-3 Referendum Procedures

Except for reorganization, no changes were recommended by the Charter Commission in this section. The Subcommittee discussed this section in general terms.

(a) Petition, Effect on Final Vote. Councilor Baker would like to speak with Ouida Young about this section: “Within 20 days following the date on which the city council or the school committee has voted finally to approve any measure, voters may file a petition protesting the measure or any part of the measure.” Would the voters need to collect the 5 or 10 percent of voters within those 20 days? There was concern that this was a very quick turnaround, however, Councilor Krintzman noted that this would be a measure to repeal a law the City Council voted to approve and there should be a high bar in order to do that.

Rhonna Kidwell noted that there would need to be a groundswell of opposition to a particular measure in order to get the required number of signatures pretty easily. If there was no such groundswell, then it probably did not have the support to begin with. The requirement would be around 2500 signatures and if 50 or 60 residents were collecting signatures, that would require them to get 40-50 each. That would not be onerous if there was support for the referendum. She felt the 20 days was sufficient.

Jack Prior asked what a “measure” might be and if it could be something like approving a special permit. Councilor Krintzman said the Charter Commission recommended adding a definition of “measure” as “an ordinance passed or could be passed by the City Council, or an order, resolution, vote or other proceeding passed or could be passed by the City Council or School Committee.”

Section 10-6 Conflicting Provisions

Councilor Krintzman noted that this provision was not changed by the Charter Commission. It provides that *“If 2 or more measures passed at the same election contain conflicting provisions, only the 1 receiving the greatest number of affirmative votes shall take effect.”* Councilor Krintzman’s view is that this should apply to any and all types of questions that are on a ballot and is not a change from the current Charter. Councilor Baker would like this to apply only to initiative or referendum questions on a ballot because in the current charter it has a heading of Initiative or Referendum and therefore, that was the intent. Councilor Krintzman noted that in every other section, the text under the heading always included the words “initiative” and/or “referendum” but in this case, the text does not include those words.

Jack Prior noted that the cannabis questions included conflicting questions, however, the City Council controlled both questions and chose to make them conflicting when they did not have to do that. With referendum or initiatives, the questions are out of the control of the City Council.

Rena Getz said she was concerned with what “conflicting measures” means. Councilor Baker noted that the current Charter uses the term “inconsistent” and not “conflicting”. He would like to offer a friendly amendment to change the language in the current draft to be consistent with the current

Charter. Councilor Krintzman noted that the use of “conflicting” tracks with language used in the Massachusetts Constitution. Councilor Baker felt more comfortable knowing this.

Councilors Kalis, Albright and Krintzman felt that the more inclusive interpretation should be adopted. Councilor Baker voted against this. The Subcommittee will recommend that this provision stay and is interpreted to include all measures on a ballot.

Section 10-19

It was pointed out that “Section 10-19” was highlighted in the draft at the beginning of Section 10-4. Councilor Krintzman said this section should have been deleted. This section will be deleted in the final draft.

Clerk’s Note: Section 10-19 was highlighted and retained in this draft because at a previous meeting, the Subcommittee wanted to be reminded to discuss the veto power of the Mayor that is referenced in this section.

Summary of Action:

- The Subcommittee accepted the reorganization of Article 10.
- The Subcommittee accepted the changes to the number of signatures for group petitions to the City Council or School Committee from 50 to 100 in Section 10-1; and the change to the number of signatures required for an initiative measure from 50 to 200 in Section 10-2.
- The Subcommittee did not accept the 20% voter participation requirement in Section 10-5.
- In Section 10-4, delete “Section 10-19” at the beginning.
- The Subcommittee agreed to accept Section 10-6 as written in the draft to include any conflicting measures and not limit this to initiatives or referenda.

Article 11. General Provisions

Section 11-1 Public Records and Section 11-2 Conflict of Interest

Councilor Baker noted that the City Solicitor was concerned about having references in the Charter to what are matters of paramount statutory law. For instance, public records and conflict of interest laws are in MGL and therefore are binding upon the City nonetheless.

Councilor Krintzman said the Charter Commission was trying to simplify the process for residents so they can find information in one place. This was not meant to change anything necessarily, just to reference the laws so that residents know they exist. These references were found in other charters they reviewed. More transparency and encouragement of citizen participation in government were key principles for the Commission. Citizens cannot participate if they do not have the information. Several examples of conflict of interest were brought up in the Charter Commission discussions so they felt this language was necessary.

Councilor Baker would prefer not to add Section 11-1 Public Record and Section 11-2 Conflict of interest. (The Subcommittee previously agreed to delete paragraphs (b) and (c) of Section 11-2.) They are not in the original Charter and the City Solicitor prefers not to include them. These laws

could be referenced somewhere else, perhaps on the City's website, they do not belong in the Charter.

Summary of Action:

- Councilor Baker will speak with the City Solicitor to let her know there is a division in the subcommittee on what to include, or whether to include both Sections 11-1 and 11-2. These sections will be held for now.

Section 11-3 Rules and Regulations

Councilor Krintzman noted that this is a new section, added so that residents can find rules and regulations that pertain to any city agency. Once a body has adopted a rule or regulation, it has to be filed with the City Clerk within 2 weeks. Councilor Baker was concerned with the result of late filing and what the effect of that rule or regulation would be. He was concerned that it may be interpreted that the rule or regulation would then be invalid. Councilor Krintzman said that could be the effect, but another option could be decided upon.

Summary of Action:

- Councilor Baker will speak to the City Solicitor about this. This section is held for now.

Section 11-4 Reenactment and Publication of Ordinances

Summary of Action:

- Paragraph (a) was previously amended and approved by members of the Subcommittee, therefore, this section remains as is.
- Paragraph (b) was previously approved by 3 members of the Subcommittee, therefore, this section will be accepted.

Section 11-13 Periodic Charter Review

Summary of Action:

- Councilor Baker will discuss this Section with the City Solicitor.

A memo will be going out before the next meeting and the Chair would like to send a recommendation to Programs & Services in early December.

The Chair noted that there will ultimately be a redlined version showing the Subcommittee recommendations against the current Charter. Another side-by-side document may need to be prepared as well.

Meeting adjourned.

Respectfully Submitted,

R. Lisle Baker, Chair