

**DRAFT**

Charter Review Committee  
Final Report  
First Draft *Rev 1*

The Franklin Home Rule Charter Review Committee was appointed by the Franklin Town Council on December 20, 2006.

Committee members include: Paul Cheli, Chairman  
Larry Benedetto, Vice Chairman  
Maureen Roy, Clerk  
Beth Simon  
Francis Molla  
Lou Allevato  
Michael Walker-Jones

We have had seventeen meetings to date, commencing on January 24, 2007. The Committee has received input from several members of the community, including former and current elected officials. We have carefully reviewed memoranda from Town Administrator Jeffrey Nutting, Town Attorney Mark Cerel and Town Clerk Deborah Pellegrini. We have also reviewed the meeting minutes and report from the previous Charter Commission which made its final report in January 1995.

During our initial meetings, we reviewed several issues pertaining to the Town Charter. These include:

1. Election or Appointment of the following positions:

Town Treasurer  
Town Clerk  
Board of Assessors  
Board of Health  
Planning Board

2. Staggered terms for the School Committee and Town Council

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3. Several Housekeeping issues as outlined in memoranda submitted by the Town Administrator and Town Attorney (memoranda attached as exhibits A and B)
4. Counting of Business Days
5. Commencement of Terms
6. Library Board of Trustees
7. Stipends
8. Mayoral System
9. Precinct System
10. Length of Terms

This Committee feels that the following items require attention from the Town Council and ultimately, the citizens of Franklin:

### **Town Treasurer**

The Treasurer in the Town of Franklin is currently an elected position. At this time, there are only minimal requirements to hold this position. These include: the candidate must be a registered voter, turning in the fifty required signatures to be placed on the ballot to the Town Clerk, being bondable, and actually winning the election. There are no **professional** requirements at this time. The committee members spoke at length with the current Town Treasurer, James Dacey, and asked him to elaborate on some of the duties entailed with his position. Though the list is too large to go into fully in this report, some of the duties include overseeing all cash, investments, cash flow, payment of bills, payroll ledgers, borrowing, tax titles, collection of taxes, property liens, and compliance with state laws and regulations concerning municipal finance. **This committee strongly believes that this is a position that should be appointed.** If the position was to become an appointed one, the Town could advertise with specific, professional requirements in order to ensure that candidates have a back

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round with proper financial qualifications, whether it be from academic degrees or a certain number of years of progressively responsible municipal experience in finance and cash management, accounting data processing and/or administration.

### **Town Clerk**

It is the opinion of the minority that the position of Town Clerk, much like that of Treasurer, is of such significance and importance that it be held to the same standards and requirements as the Treasurer and all other major municipal departments. Recognizing the good fortune and experience of the town with the present clerk, there is no guarantee this good fortune will continue in the future. Further the current trend, statewide is to consolidate the position of clerk as part of appointed government assuring uniform standards, accountability and professionalism of the office, answerable, and responsible as all other major municipal departments are.

It is the opinion of the majority that the position of the Town Clerk remain an elected one.

### **Staggered Terms**

One key issue which we examined carefully was staggering of terms for the elected committees and councils in Franklin. The purpose of this would be to maintain continuity and visual stabilization within Town of Franklin government. After conducting many interviews, discussions with past and present councilors and school committee members, and preparing matrixes to figure out the complexity of how to accomplish this, we have concluded that it can work but requires a lot of time and terms that are either too short or too long. We initially studied how a four year term would work, yet found in our interviews of elected officials that many people were against having a position for that long of a period. Furthermore, we studied election results for the last twelve years, and turnover on any elected board was little to moderate. We have concluded that elected terms, as the Town Charter currently constructs them, did not warrant a substantive change at this time.

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We also took into consideration the Charter Review Commission's report from 1995, and they concluded that the process of changing this could weaken and have ineffective players in representing their constituents.

### **Counting of Business Days**

The Town Charter currently includes Sundays and holidays in its formulas for counting business days. Since these are not actually days where Town business can be conducted, the Committee feels that this should be amended.

### **Commencement of Terms**

The Town Charter calls for newly elected officials to take the oath of office on the Wednesday after their election. The Committee members believe that the swearing in of elected officials should be delayed for one week after the Town election. The primary reason for this opinion is to allow for a recount challenge should one be made.

### **Role Of The Town Administrator**

The role of the Town Administrator is defined in the Town Charter. However, there are many areas that are somewhat unclear with regard to the role and duties of the Town Administrator. As alluded to earlier in this report, the current Town Administrator and Town Attorney submitted memoranda to this Committee outlining several areas that they felt needed clarification. Additionally, there were memoranda (dated May/June 1994) from previous Town Administrator Wolfgang Bauer and Town Attorney Mark Lanza which refer to the same concerns. Rather than list them here, we have attached these memoranda to this report as exhibits A, B, C, and D for your review. It is our hope that members of the Town Council and the current Town Administrator will take time to digest these issues and make the changes necessary to enhance their working relationship.

**Paul J. Cheli**

**DRAFT**

**From:** Paul J. Cheli  
**Sent:** Tuesday, November 27, 2007 3:46 PM  
**To:** 'MaurRoy@aol.com'  
**Cc:** 'mawj@comcast.net'; 'Lou Allevato'; LawrenceBenedetto@Yahoo.com; 'simonsez4@verizon.net'; nonnomolla@Verizon.net  
**Subject:** Town Clerk Minority Report Draft

The purpose of this email is to formally submit the minority position of the town clerks position regarding appointment versus elected. The following is the opinion of committee members Benedetto and Cheli:

It is the opinion of the minority that the position of Town Clerk, much like that of Treasurer, is of such significance and importance that it be held to the same standards and requirements as the Treasurer and all other major municipal departments. Recognizing the good fortune and experience of the town with the present clerk, there is no guarantee this good fortune will continue in the future. Further the current trend, statewide is to consolidate the position of clerk as part of appointed government assuring uniform standards, accountability and professionalism of the office, answerable, and responsible as all other major municipal departments are.

Sincerely,

Paul J. Cheli  
Firm Administrator  
Gilmore, Rees, Carlson & Cataldo, P.C.  
1000 Franklin Village Drive Suite 305  
Franklin, Ma. 02038  
508-553-8430 direct line  
Fax 508-520-2217

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## Charter Review Committee

### Election Results

Election Year	Change	new positions	Total Candidates	new vs. # of seats	Results
1995 Council		2	13	2/9	0.22%
School		0	9	0/9	
1997 Council		7	16	7/9	0.78%
School		4	9	4/7	0.57%
1999 Council		7	18	7/9	0.78%
School		3	8	3/7	0.43%
2001 Council		1	11	1/9	0.11%
School		1	7	1/7	0.14%
2003 Council		2	15	2/9	0.22%
School		1	8	1/7	0.14%
2005 Council		3	14	3/9	0.33%
School		2	9	2/7	0.29%
2007 Council		3	14	3/9	0.33%
School		1	7	1/7	0.14%

# Town of Franklin



150 Emmons Street  
Franklin, Massachusetts 02038

May 31, 1994



*Wolfson*

## Charter Commission Town of Franklin

### Overall Comments:

The way I understand the Charter to be designed was to distinguish Town government into two arenas, Town Council = Town Meeting = Policy and Town Administrator = Selectmen = Administration.

Overall, there have been very few problems with the Charter, especially if you look at where we have been and how far we have come.

In my short experience, the ability to conduct any and every governmental activity two times per month has helped Franklin tremendously in the area of industrial development.

There is very often the perception that the Town Administrator has a lot of power and uses it indiscriminately. Almost everything the Town Administrator accomplishes requires the approval of someone else. The majority of the constraints on the Town Administrator's power are related to the budget and its line items. In addition, all agreements have to be approved by the Town Council or the Planning Board. Added to these reviews are the reviews of the Town Attorney and the Comptroller.

### Specific areas:

1. **2-1-2 Size of Council.** I favor a significantly decreased Council, elected at large. Seven to nine members, elected to three year, staggered terms. I believe this number is within the limits of communication between Council and Administrator.
2. **2-2-1 Membership** - I believe anyone ought to be able to run for Town Council, but someone should not be a Town employee and a member of the Council at the same time.

3. **2-3-2 Journal** - I believe the Town Clerk should be charged with maintaining the Journal, which she now does.
4. **2-4-4 Appointment** - I would not be unhappy if the Council appointed all boards and commissions.
5. **2-8-1 Vacancy** - To prevent the need for special elections, the Council should appoint members to vacant seats until the next regular scheduled election. Appointment could be made to the "highest vote" candidate, not elected at the last election, or anyone else interested.
6. **3-1-2 Treasurer-Collector** - Make this an appointed position at its next vacancy. It should be a part of a Finance Office and it requires a highly skilled person. We are lucky the current Treasurer has a lot of training and experience in the office.
7. **3-2-1 School Committee** - May require a change because of Education Reform. School Committee no longer has the authority to appoint all school employees.
8. **4-2-1 Chief Administrative Officer** - Causing problems because, in effect, we do not have a CEO. We have a chairman of the Town Council who has similar powers as all other Council members and has to be specifically authorized to function as the CEO. Much of the day to day functions, to include school union negotiations require the chief executive officer. I understand that there is past history to the title, but it currently doesn't work the way it was designed.
9. **4-2-2 Holding of Office** - I am currently also the Veterans Agent. It was previously a separately appointed office. To get around the Charter restriction, we changed my job description to include veterans affairs. I believe the Town Council should have the flexibility to appoint the Town Administrator to functions as it deems appropriate.
10. **4-2-3 Personnel System** - We in effect do not have one personnel system in Franklin. Elected officials, in effect, have some responsibility in hiring their department personnel. Assessor, Board of Health, Town Clerk and Treasurer are all in charge of hiring and reviewing their personnel. I believe there ought to be one system, although I strongly agree that department heads or elected officials ought to participate in the final selection.

11. **4-2-5 Ratification** - I believe the requirement for ratification of employees should be removed. As a compromise, at least the ratification requirement for all employees other than department heads ought to be removed. There is and there should not be participation from Town Council members in the hiring process. Also remove the Personnel Board, which we do not have.
12. **7-7-1 Appointing Authority** - Removal of all employees does not rest under one criteria or system because of the elected offices.

I appreciate the opportunity to review the above listed points with you.

Sincerely,



Wolfgang Bauer  
Town Administrator

**FRANKLIN CHARTER COMMISSION  
MINUTES OF JUNE 13, 1994**



**Present:** James Dacey, Chairman, Kathryn Griffin, Vice Chairman, Debbie Pellegri, Clerk, Mario DeBaggis, Walter Jackson, Fran Malloy, Neil Roche, Michael Westerman, George Cody

Meeting opened with a moment of silence. Mr. Dacey referred to the minutes of May 31, 1994 and the board voted to approve them and wait to approve the minutes of June 6, on June 21, 1994.

Mr. Dacey asked for any public comment, Mr. Cleaton a former Town Council member gave a few comments to the Commission, on council size, he feels 1 from each precinct and 5 at large would be good, he is not in favor of terms in office, against a Mayor, standing committees (Personnel Board or committee) feels the town needs this, promote from within good for morale, and the Town should have uniform policies.

Mr. Jackson asked him in reference to the Personnel Board, should it be appointed or elected and Mr. Cleaton feels it should be appointed but would not be opposed to elected. Mrs. Griffin asked Mr. Cleaton his opinion regarding the Town Clerk and Town Treasurer positions, should they be appointed or elected. Mr. Cleaton said, it is a paid position, needs expertise, someone bonded, he feels elected is good. Mr. Dacey asked him about precinct reps, vs. At Large, and did he represent a precinct or the whole town. Mr. Cleaton said he represented the whole town. Mr. Malloy commented on Mayor vs. Administrator and said it would be hard to get a Mayor out of office. Mr. Cleaton said yes it would because you would have to vote him/her out. Mr. Roche asked his opinion on a Fall election. Mr. Cleaton said there is a cost issue, he does like the Saturday elections. Council should do their homework due to the financial material early in the year.

Mrs. Ann Arpen made the comment that she prefers the Town Administrator over a Mayor. She also feels community communication is vital, and likes precinct council. Mr. Malloy commented that with the towns growth by the time we reach 40,000 we'll have a lot of council members. Ann Arpen said by the time we reach 40,000 there will be another Charter Commission to review it. Mike Westerman asked her how she felt about Saturday Elections and Fall Elections. Anne said she likes Saturday elections, and Fall would be good. Mr. Malloy asked about voting in 1 central area, Mrs. Arpen said that 1 area is good, to many gets confusing and people won't know where to go. Mr. Westerman asked her opinion about Clerk and Treasurer being elected or appointed. Mrs. Arpen stated that she feel appointed due to the qualifications the people should have for the positions. Mr. Roche asked if Town Council should be paid, Ann said yes, if they are bringing in expertise, but then they shouldn't be elected.

School Committee was next to speak. Amy Westerman, Tom Olsen and David Porter were present along the Dorothy Swanbeck the Superintendent. Amy commented that page C-6 directly related to the School Committee, being elected is law, she feel 3 year terms is good, it takes at least a year to understand the process. In favor of terms limits (maybe 2 terms) Feels the elections should be in the Fall. Dave Porter feels the elected people should learn the laws, doesn't feel date of election makes a difference. He feels council size should be smaller. Tom Olsen said he went to budget process prior to being elected. Saturday elections is a good idea, and likes precinct council. Mrs. Swanbeck stated she feels a Mayor/Administrator should be appointed, Clerk/Treasurer should have all the qualifications, a November election would be better, and Saturday elections are good, terms for the School committee, council size should be smaller (personnel opinion).

Mr. Dacey asked if they felt 7 members worked well. Tom Olsen said 7 is good, and the rest agreed. Mr. Westerman asked if the Town Council or Town Administrator interfered in any way with the School Committee? Tom Olsen said that transportation issues have to go before the Town Council. Mr. Westerman commented on infrastructure, Town Council always has a say in building. Mrs. Swanbeck said it was the law, Town Council to appoint building committee. Mr. Westerman asked about merging the Town Administrator and Comptroller positions, Mrs. Swanbeck stated that it would be impossible due to the workload.

Mark Lanza the Town Attorney made his statements. They are attached.

Assessors, Comptroller, Treasurer, Finance Committee, Library Committee and Clara Lody would be invited to the June 21, 1994 meeting.

Motion made and duly seconded to close meeting. Board voted 9-0 to close.

Meeting adjourned at 10:30 P.M.

Respectfully Submitted,

*Diana M. Gilley*

Diana M. Gilley  
Secretary, Charter Commission

# Town of Franklin



150 Emmons Street  
Franklin, Massachusetts 02038

## MEMORANDUM

TO: Charter Commission

FROM: Mark J. Lanza, Town Attorney *Mark J. Lanza*

RE: Changes to Town Charter

DATE: June 13, 1994

You have sought my input and comments as to desirable amendments to the existing Town Charter. The following are the changes that I feel are desirable to improve the existing Town Charter. My suggested changes fall into two categories that sometimes overlap: (1) amendments that are appropriate as a matter of law to clarify ambiguous terms, bring the Charter into compliance with current law, etc.; and (2) amendments that are intended to increase the organizational effectiveness of the Town of Franklin as unit of local government. These suggested changes do not necessarily represent the views of the Town Administrator or Town Council but reflect my personal views based on my experience generally as municipal manager and municipal law specialist and specifically, as Town Attorney for almost four years.

### I. Amendments Desirable as a Matter of Law

#### Article II - The Town Council

##### Section 2 Eligibility

2-2-1 should be amended to prohibit paid employees of any Town department and the School Department from being members of the Town Council. Although not legally a conflict of interest under G.L. c. 268A, such dual office holding is fraught with many practical or real conflicts.

##### Section 4 General Powers and Duties

2-4-1 Clarify that the Town Council is not the chief executive officer of the town. This designation is more appropriately given to the Town Administrator for reasons set forth below.

2-4-3 Clarify that Town Clerk is responsible for maintaining journal of Council proceedings. This is the current practice. In "towns", Town Clerks are statutorily responsible for keeping a record of the legislative body, town meeting.

2-4-4 Clarify the Town Council's general power to create ad hoc and study committees. This is an inherent legislative and corporate power of the Town.

#### Section 5 Procedures

2-5-1 Make a provision for calling emergency meetings (public health or safety reasons) with less than 24 hours notice. Such lesser notice is permitted in these situations under the Open Meeting Law.

2-5-2 Clarify that full Council membership means all existing seats whether vacant or not.

2-5-3 Limit public's and employees' right to be heard at any meeting to times when deemed appropriate by the Chairman. The Open Meeting Law does not guarantee anyone a right to be heard at a public meeting. During hearings (separate from or as part of a meeting), certain persons have a right to be heard under the General Laws and/or the Constitution.

### ARTICLE III ELECTED TOWN BOARDS AND OFFICERS

#### Section 2 Special provisions

3-2-1 Amend to make consistent with School Ed Reform Law. This provision should be reviewed by a school law specialist.

#### Section 3 Vacancies

3-3-2 Clarify which provisions of general law, city or town, apply here.

### ARTICLE IV THE TOWN ADMINISTRATOR

#### Section 1 Appointment and qualifications

4-1-1 Clarify contractual relationship between Town Council and Administrator. Town Administrator does not serve "at will".

4-1-2 Eliminate residency requirement. Residency in Town is more of a disadvantage than an advantage.

4-1-3 Require a Master's Degree in Public Administration or an MBA.

Section 2 Powers and Duties

4-2-1 Redesignate Town Administrator as chief executive officer of the Town. The Town Council as the legislative body of the Town is not the appropriate body to be designated chief executive officer also.

4-2-5 Eliminate need for Town Council ratification.

ARTICLE V TOWN ELECTIONS

Section 3 Referendum

Insert a section providing for Town Council called elections for referenda questions.

ARTICLE VI FINANCIAL PROVISIONS AND PROCEDURES

Section 1 Applicability of general law

6-1-1 Clarify which general laws apply, those pertaining to cities or towns.

ARTICLE VII GENERAL PROVISIONS

Section 2 Specific provisions to prevail

7-2-1 Clarify hierarchy of law re: organizational provisions of Charter and General Laws on same subjects.

Section 7 Suspensions and removals

7-7-1 and 7-7-2 Eliminate "good cause" standard for removal. It conflicts with "at will" employment relationship.

7-7-3 There should be no limit on term of suspension.

7-7-4 Eliminate completely. It conflicts with at will employment relationship.

It is advisable to consult a municipal employment relations law specialist with respect to this section.

II. Amendments Desirable to Increase Organizational Effectiveness

A. Town Council

1. Reduce membership to 11 or 9 to make more wieldy and manageable.
2. Increase terms to three years to increase continuity and stability.
3. Transfer responsibility for all committee and board appointments from Town Administrator to Town Council. Committee appointments are not a management function.
4. Transfer all licensing authority to the Town Council. Licensing is not a management function.

B. Financial Administration - Create a pyramid shaped organizational chart as follows:

1. Designate Town Comptroller Chief Financial Officer of Town.
2. Make Town Treasurer/Collector appointed by Town Administrator and directly accountable to the Chief Financial Officer.
3. Make the Assessors appointed by the Town Council and the Assistant Assessor appointed by the Town Administrator and directly accountable to the Chief Financial Officer.

C. Planning Board - Make it appointed by the Town Council to increase accountability for land use and growth related decisions.

D. Town Clerk - Make position appointed by and accountable to the Town Administrator. This position should be on par with all other department heads.

E. Board of Health

1. Make it appointed by the Town Council to increase accountability.
2. Make Health Agent appointed by the Town Administrator and directly accountable to the Building Commissioner and part of an Inspectional Services Department.

F. Constables - Make them appointed by the Town Administrator and directly accountable to the Police Chief.

MJL/ms

cc All Interested Parties

## Office of the Town Administrator



### MEMORANDUM

**Date:** April 23, 2007  
**To:** Charter Review Committee  
**From:** Jeffrey D. Nutting, Town Administrator *JN*  
**Subject:** Items for Consideration

As a follow up to my meeting with the Charter Committee, I offer the following thoughts for your consideration:

1. Section 2-5-1 - Requirement that the Council meet twice per month.  
I recommend striking this requirement from the Charter. The Council should be free to establish its schedule similar to all other elected and appointed committees. An alternative would be require a meeting once per month.
2. Section 3-1-1 - Election of Board of Assessors – I recommend that the Board of Assessors be appointed by the Town Administrator and ratified by the Town Council. The Assessing Department is a key component in the financial affairs of the Town. Assessors are required to take and pass a course in assessing, or they cannot serve in that capacity. Appointing the board should make it easier to find qualified members.
3. Section 3-1-2 - Election of Treasurer/Collector – I recommend that the Treasurer/Collector be appointed by the Town Administrator. This is an extremely important position within our structure and should require qualifications not guaranteed in an elected office. The Treasurer/Collector is responsible for the collection, investment, and distribution of about \$100 million dollars per year. Appointing the position will allow us to seek someone with a solid educational and work related experience.
4. Section 4-2-5 - Ratification- I suggest that this needs review on several fronts. I think the community needs to address which staff positions, if any, should be ratified by the Town Council. The intent of the form of government is to separate the day-to-day operation from politics. Appointments by its very nature can become political. I offer three possible suggestions:
  - A) If the Town Council wants to maintain some oversight of a handful of key positions i.e. (Police Chief, Fire Chief, DPW Director, Comptroller, Town Counsel and Treasurer (if appointed), then those should be listed and all others at the discretion of the Town Administrator.

- B) Allow the Town Council a period of time (14 days) to reject an appointment.
- C) Allow the Town Administrator to make the appointments of all employees without A or B above.

Many multi-member boards do not exist any longer and should be eliminated from the list. The Assessors would be added if appointed. The ZBA has three members and two alternates, and the language that relates to individual town officers and employees should be eliminated.

Section 4-4-1 - Add language that allows the Town Administrator to appoint an acting Town Administrator for up to 30 days during his/her absence and strike the time restriction imposed on the Town Council for appointing an Acting Town Administrator.

Section 6-2-1 Finance Committee - Increase the appointment to three year staggered terms similar to other boards.

6-5-1 Budget Proposal - Strike the last sentence and substitute the following -- *The budget shall be in such form as the Town Administrator deems desirable and within the time line requested.*

Section 6-6-1 Action on the budget - Add in the first sentence prior to *proposed, the Town Administrator's*, so that the language reads, *the Town Administrator's proposed budget.*

# Town of Franklin



355 East Central Street  
Franklin, Massachusetts 02038-1352

## MEMORANDUM

TO: Franklin Charter Study Committee

FROM: Mark G. CereI, Town Attorney

RE: Suggested Areas for Charter Review/Revision

DATE: April 20, 2007

### Article Two – Town Council

- 2.1.1 Defines Council as legislative body of town when in practice it also exercises some executive functions. This should be addressed either by expanding charter definition to reflect reality or revising Article Four of Charter to make it clear that all executive functions are vested in Town Administrator.
- 2.2.2 The absolute prohibition on holding another compensated office or position should be reviewed for desirability of consequences: this section prevents teachers and other municipal employees from serving on Council and, conversely, prevents Councilors from being employed by town even on part-time or temporary basis.
- 2.3.2 Requirement for Clerk of Council to maintain a journal of Council proceedings: is this being done and, if so, is it necessary? Should language be revised simply to make Clerk responsible for seeing that votes are recorded and minutes kept accurately?
- 2.6.4 What is quantum of vote for resolutions: Majority of full Council or of Councilors present and voting?

### Article Three – Elected Town Boards

There should be a provision under this Article spelling out quorum and vote requirements.

Memorandum to Franklin Charter Study Committee  
April 20, 2007  
Page 2

Article Four – Town Administrator

- 4.2.1 Should there be language vesting all executive functions in T.A.? (See 2.1.1 above)
- 4.2.5 Powers should include authority to remove uncompensated appointees for good cause, including excessive absenteeism.
- 4.3.1 Suggest T.A.'s removal should require at least 2/3 vote of full Council.

Article Six – Financial Provisions

- 6.2.1 Should Fin Com be a Town Administrator appointment with Council ratification?

Article Seven – General Provisions

- 7.4.1 Establishment of quorum is left to each Board; there should be one definition applicable to all. Also, majority vote should be defined for all.
- 7.7 Suspensions and removals.
  - 7.7.1 Applies to salaried employees, only; there should be a mechanism for removal of uncompensated appointed officials for cause, as noted under Town Administrator comments (4.2.5).

MGC:ce

# Town of Franklin



Deborah L. Pellegrini, CMC  
Town Clerk  
Election Administrator

Office of Town Clerk  
355 East Central Street  
Franklin, Massachusetts 02038-1352  
(508) 520-4900  
E-mail: dpellegrini@Franklin.MA.US

Notary Public  
Justice of the Peace  
Passport Agent

To: Franklin Charter Study Committee

From: Deborah L. Pellegrini, CMC

Re: Suggestions

Date: August 15, 2007

It was a pleasure to meet with your committee last evening. You certainly have your work cut out for you. We can only hope that your hard work will be considered by the Town Council. As I suggested last evening, too many changes on the ballot may discourage it passing ie, someone may like one thing and not something else, resulting in a "no" vote.

Here are some areas that I want to bring to your attention:

## Article 1 Powers of the Town

I would leave this section as is

## Article 2 Town Council

- 2-1-1 I would leave this section as is.
- 2-1-2 Change depending on Council terms. Staggered term 3/3/3; yearly elections for three year terms (or) 4/5 with Biennial Elections for a four year term.
- 2-1-3 I would leave this section alone
- 2-1-4 I would leave this section alone
- 2-2-1 I would leave this section alone.
- 2-2-2 See Acts of 1985 allowing employees to run for Council. This may need to be reworded.
- 2-3-1 I would leave this section alone.
- 2-3-2 I would leave this section as is.
- 2-3-3 I would leave this section as is.
  
- 2-4-1 I would leave this section as is.
- 2-4-2 I would leave this section as is.
- 2-4-3 I would leave this section as is.
- 2-4-4 I would leave this section as is. Council to appoint Finance Committee works well.
  
- 2-5-1 I would leave this section as is.

2-5-2 I would leave this section as is.  
2-5-3 I would leave this section as is

2-6-1 I would leave this section as is.  
2-6-2 I would leave this section as is.  
2-6-3 I would leave this section as is.  
2-6-4 I would leave this section as is.  
2-6-5 I would leave this section as is.

2-7-1 I would leave this section as is.

2-8-1 I would leave this section as is.  
2-8-2 I would leave this section as is

Article 3	Elected Boards and Officers
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3-1-1 I suggest changing School Committee terms to staggered to go along with the Town Council staggered terms. All other elected positions I would keep elected. Don't take away the voice of the people. Note: If we take away more and more elected position, then voter turnout will be down and Councillors will be elected with few votes. I don't believe we want that to happen.

3-1-2 I would leave this section as is. Same reason as above.

3-1-3 I would leave this section as is.

3-1-4 I would leave this section as is.

3-3-1 I would suggest that the Town Council has charge of school building.

3-3-2 I would leave this section as is.

Article 4	Town Administrator
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4-1-1 I would leave this section as is.

4-1-2 I would suggest that the Town Administrator be granted no waiver and must live in Franklin after appointment.

4-1-3 I would leave this section as is.

4-2-1 I would leave this section as is. The TA is the Chief Administrative Officer and the Council Chairman is the Chief Elected Officer of the Town. The original charter committee and those commissions that were elected since did not want to give the TA position that much "power".

4-2-2 I would leave this section as is.

4-2-3 I would suggest that is 3-3-1 is changed to Town Council being in charge of school building, then a change in wording would need to be done here.

4-2-4 (See 2-7-1) This would need a bylaw?

4-2-5 Does this section mean since it says 'Shall' we must have all of these??

4-3-1 I would leave this section as is.

4-4-1 I would leave this section as is. Six months is adequate.

#### Article 5 Town Elections

- 5-1-1 "Biennial Election" needs to be changed if we go with annual elections and November would also need to be changed. (I would suggest it be back to April)
- 5-1-2 I would leave this section as is.
- 5-1-3 I would leave this section as is.
- 5-1-4 I would leave this section as is.
- 5-1-5 I would leave this section as is.
- 5-2-1 I would leave this section as is.
- 5-2-2 I would leave this section as is.
- 5-2-3 I would suggest that "within thirty-five (35) days be changed to say 'no earlier than 35 days but not later than 45 days'. Ballots need to be printed and absentee ballots must be given enough time for the voters who cannot vote at the election.
- 5-2-4 I would leave this section as is.
- 5-2-5 I would leave this section as is.
- 5-3-1 I would leave this section as is.
- 5-3-2 I would leave this section as is.
- 5-3-3 Change to read the same as 5-2-3 recommended changes.
- 5-3-4 I would leave this section as is.
- 5-3-5 I would leave this section as is.
- 5-3-6 I would leave this section as is.
- 5-4-1 I would leave this section as is
- 5-4-2 I would leave this section as is.
- 5-4-3 I would leave this section as is.
- 5-4-4 I would leave this section as is.

#### Article 6 Financial Provisions and Procedures

- 6-1-1 I would leave this section as is
- 6-2-1 Change "Accountant" to "Comptroller"
- 6-2-2 I would leave this section as is.
- 6-2-3 I would leave this section as is.
- 6-3-1 I would leave this section as is.
- 6-4-1 I would leave this section as is.
- 6-5-1 I would leave this section as is.
- 6-5-2 I would leave this section as is.

- 6-6-1 I would leave this section as is.
- 6-6-2 I would leave this section as is.
  
- 6-7-1 I would leave this section as is.
- 6-7-2 I would leave this section as is
  
- 6-8-1 I would leave this section as is.

**Article 7 General Provisions**

- 7-1-1 I would leave this section as is.
- 7-2-1 I would leave this section as is.
- 7-3-1 I would leave this section as is.
- 7-4-1 I would leave this section as is.
- 7-5-1 I would leave this section as is. (Counting of days can be confusing when holidays fall mid week, Monday holidays for some. We have never had a problem with this and I suggest that we stay with how we have been doing it to avoid any confusion.)
- 7-6-1 I would leave this section as is.
  
- 7-7-1 I would leave this section as is.
- 7-7-2 I would leave this section as is.
- 7-7-3 I would leave this section as is.
- 7-7-4 I would leave this section as is.
- 7-7-5 I would leave this section as is.

**Article 8 Transitional Provisions.**

**The committee must be very careful here in the transitional provisions if you are changing terms of office for any positions. Actually, Town Counsel should help you with this.**

In conclusion, I would suggest that we not "reinvent the wheel".

Remember, the Town Administrator works for the Council. The original charter commission and those thereafter all agreed that too much "power" given to the Town Administrator was not what was they intended when they voted in this type of government. I agree with, even more, today.

The more elected positions that we take away from the voter, the less votes it will take to elected the legislative body of the Town, namely the Town Council.

Thank you for all your time hard work.



## Paul J. Cheli

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**From:** Paul J. Cheli  
**Sent:** Wednesday, February 18, 2009 10:11 AM  
**To:** 'cdds2@comcast.net'  
**Cc:** 'Lawrence Benedetto'; 'Lou Allevato'; 'MaurRoy@aol.com'; 'simonsez4@verizon.net'; 'nonnomolla@Verizon.net'; 'mawj@verizon.net'  
**Subject:** Draft Report Of Charter Review Committee  
**Attachments:** DOC021809.pdf



DOC021809.p  
df (659 KB)

Chris,

Sorry for not getting back to you last week, the firm is crazy right now. I wish I could tell you that it was a good crazy busy but it is not. Having nine new bosses is becoming almost impossible to manage, the economy is not helping as well. I know you are equally busy and in the worst part of tax season. I felt it best to send you a draft of the report and give you time to review it and give you our concerns, you can then let us know how you would like our committee to proceed. We may need a few weeks notice to get all members availability to present to the full council.

Some quick background, we met again about two weeks ago and that would have made a total of 18 meetings of our committee. At first appearance of the draft report it may appear that we did not accomplish very much as there are very few changes. We did have a minority opinion from Larry and myself regarding the Town Clerk being changed to appointed along with the Treasurer. Also attached to the report are memos from Jeff, Mark Cerel, Wolfgang and Mark Lanza we felt that these memos warrant attention as they basically highlight the same issues and the time period is 15 years later, which is more than just freak phenomena. Also of special attention is a draft of a chart which shows the town election results for council and school committee for the last twelve years, the purpose of this chart was to highlight any significant turnover of these two elected bodies in the last twelve years. The chart reveals that significant turnover on the council seats in 1997 and 1999 respectfully and both years resulted in 7 out of 9 councilors being replaced. History will show that this was I believe a special circumstance which may not occur in the near future( anti growth movement ). Also when we tried to implement staggered terms our committee could not create a matrix which would work without extending terms to four years, this was met with resistance from many elected officials which we interviewed as being too long. Also staggered terms are severely hampered by state election laws which prohibit local elections to be held on the same ballot as state and national elections thus requiring moving our local election those years to the spring and thus increasing the number of elections which is not desirable due to cost and may contribute to voter apathy. Our committee spent considerable time on this issue and we were surprised when we viewed the historical data that turnover was not a significant issue over a twelve year period. I know this may raise some concerns as there may be a potential of similar turnover in the next election but I feel strongly that we can defend our position with factual historical information.

Also included in this draft is a letter from Deb Pellegrini which we felt should be included as her assistance and advise throughout this process was greatly appreciated and while we may not have agreed with some of her suggested changes we felt that her view should be part of the materials as well. Her past history with the last charter commissions work was truly of great value to our committee. Jim Dacey was also instrumental in this area as well, the town is very fortunate to have two elected positions of such importance and with individuals with such experience, integrity and passion for their community.

In closing I am very proud of all the committee members hard work, dedication and passion for our town. While we did not always agree on all points all members were always professional and friendly after spirited debates on the issues. It was truly an honor to serve with such a diverse and intelligent group.

I await your recommendations regarding how to proceed.

Sincerely,

Paul J. Cheli  
Firm Administrator  
Gilmore, Rees, & Carlson P.C.  
1000 Franklin Village Drive Suite 305  
Franklin, Ma. 02038  
508-553-8430 direct line  
Fax 508-520-2217

-----Original Message-----

From: copier [mailto:Toshiba@grccpc.com]  
Sent: Wednesday, February 18, 2009 9:13 AM  
To: Paul J. Cheli  
Subject: Scanned from Toshiba723 02/18/2009 09:12

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