

TOWN OF FALMOUTH

CHARTER REVIEW COMMISSION

FINAL REPORT

September 12, 2008



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September 12, 2008

Will Armitage
Chair, Falmouth Town Council
270 Falmouth Road
Falmouth ME 04105

Dear Chair Armitage:

It is a pleasure to forward to you, the final report of the 2008 Town Charter Review Commission.

Background

In June 2008, the Town voters elected Jean Gulliver, Ann Goggin, William Lunt, David Snow, Peggy McGehee and me as the elected representatives and the Town Council appointed Steven Brinn, Steve Walker, and Tim O'Donovan as the appointed members. Our Commission represented a broad cross section of our town with extensive experience serving on our elected and appointed boards and community organizations.

We had an organizational meeting on July 7, 2008. We reviewed the current charter as well as the report of the 1998 Charter Commission and the charters of neighboring towns. We had the active participation of Town Manager Nathan Poore, Assistant Town Manager Amy Lamontagne and William Plouffe, our Town Attorney.

We held 2 meetings between that date and September 9, 2008, and during that period we had two additional meetings to seek public comment. We also received e-mails and phone calls from interested citizens and some members of the commission sought comments from some town employees who might be affected by proposed charter changes.

Goals and Results

While we were largely guided by the principal that "if it ain't broke, don't fix it" we also recognized that some portions of our fine charter were not for the Twenty First Century.

I believe the commission achieved a broad consensus in favor of changes that would promote the following broad goals:

- Enhancing checks and balances
- Fostering increased participation, openness and transparency in town government
- Maintaining appropriate financial controls
- Improving communications between the Town and its citizens
- Dealing with the possibilities of School Consolidation
- Enhancing the features of the Council/Manager form of town government

It is important to remember that none of our changes are directed against or in favor of any municipal employee or official. We made every effort to take a long view and to try to imagine scenarios without reference to the current office holder. Given the long experience of the Commission Members, I think we were well positioned to do that.

I am pleased to report that we achieved unanimity on roughly 90% of the proposed changes. Where there was not unanimity, I have indicated the vote on the contested item.

I want to be clear that the fact that we agreed on so much does not mean that we did not engage in a significant amount of discussion and debate as part of our decision making process.

The Assessor Issue

One issue continued to sharply divide the Commission—the line of authority over the Town Assessor. The current charter calls for the Assessor to be appointed by the Town Council. A majority of the Commission members, including several former town councilors, believe that the Town Manager is best equipped to hire and supervise the Town Assessor and that the current Charter's provision creates an awkward and/or inefficient line of communication and control.

We reviewed other Town Charters and consulted with our Town Attorney who informed us that some towns follow our current practice and some follow our proposal to have the Town Manager hire and oversee the Assessor. We had extensive debate within the Commission as well as public comment on the issue. Notably, our current Town Manager and Assessor expressed neutrality on the issue.

The reasoning behind the majority's reasoning to recommend that we change the current reporting relationship so that the Assessor reports to the Manager, rather than reporting directly to the Council, includes the following;

- that supervision of all town employees, including the Assessor is consistent with a strong, professional manager/council form of town government;

- having the Assessor report to and be hired and discharged by the manager may better insulate the assessor from political pressure than having her/him report to an explicitly political body;

- a highly qualified, professional town manager is far better equipped to hire, supervise and evaluate the Assessor than an excellent, but still relatively amateur town council, particularly in the event such services are consolidated with other towns

- Current state statutes, valuation practices and requirements and accounting practices ensure an appropriate measure of proper behavior; and

- Proposed changes to the Charter will give future councils the ability to inquire into the interaction between the Assessor and the manager.

A minority of the Commission expressed the same desire to insulate the Assessor from political pressure, but came to the opposing conclusion, that the better way to do this is to continue the current practice of having the Assessor report to the Council rather than the manager. The majority respects and appreciates the minority's views and analysis of the issue and the entire Commission felt that the best way to deal with the issue was to make the Assessor related issue a separate question so that the voters could have their say on this important issue.

Accordingly, we have recommended that the Council present our proposed changes in the form of two questions.

Question 1 will be a yes/no vote on 16 proposed changes which we and the Town Attorney, respectfully suggest the council submit to the public in summary form.

Question 2 will be a separate question regarding the appointment and supervision of the Assessor as to which the majority recommends a "yes" and the minority recommends a "no".

I think I am safe to say that all members of the Charter Commission look forward to having these recommendations decided by the voters at what is sure to be a high turnout election this November.

The Commission owes a great debt of gratitude to Nathan Poore, Amy Lamontagne and Bill Plouffe who spent a great number of hours patiently listening and participating as well as many hours helping us explore ideas and developing appropriate language. We could not have asked for more, faster or better support.

Special thanks are owed to Karen Farber who was a big help in dealing with some of the potentially tricky school consolidation issues.

Councilors Joe Wroblewski, Bonny Rodden and Teresa Pierce gave us their perspective which we appreciate more than might have been entirely obvious at the meeting(s) they attended.

Thanks to those few members of the public who gave up some of their precious summer time to share their views. Finally, I thank the commission members. Every member rolled up his or her sleeves and worked hard (including homework assignments) to finish our work in time to get our changes to the public in November despite the fact that meetings were generally scheduled on summer nights when it was not raining.

Respectfully submitted,

Richard Olson, Chair

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This section includes all charter revisions accompanied by a summary describing the substantive change.

ITEM - 1

Sec. 102. Powers of the Town. The Town shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises, and shall be subject to all the duties, liabilities and obligations, provided for herein, or otherwise pertaining to or incumbent upon said Town as a municipal corporation, or the inhabitants or municipal authorities thereof; it may enact by-laws, regulations and ordinances not inconsistent with the Constitution and laws of the State of Maine, and impose penalties for the breach thereof to be recovered to the use of said Town by appropriate action. Except as otherwise provided by state law, such penalties shall be determined or set by ordinance.

The Town may acquire property within or without its corporate limits for any Town purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and may sell, lease, mortgage, hold, manage and control such property as its interest may require.

In this Charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the Town would have if the particular power were not mentioned. The Charter shall be liberally construed to the end that the Town may have all the powers necessary or convenient for the conduct of its municipal affairs, including all powers the Town may assume pursuant to state laws and to the provisions of the State Constitution.

The Town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more persons, corporations, states or civil divisions or agencies thereof, or with the United States or any agency thereof.

Summary: Section 102 is amended to make it clear that the Town may perform its functions, by contract or otherwise, with persons or corporations in addition to other governmental entities.

Charter Commission Vote: Unanimous

ITEM - 2

Sec. 202. Qualifications. Councilors shall be qualified electors of the Town and shall have their principal place of residence in the Town during their terms of office. No Councilor shall hold any paid office or position of employment with the Town except for on-call, non-ranking employees of the Fire/EMS Department and members of the Fire Police. If a Councilor shall cease to possess any of these qualifications or shall be convicted of a crime involving moral turpitude, the Council shall, by resolution, declare the office of that Councilor shall immediately become vacant.

The office of Councilor shall become vacant upon resignation, death, recall, failure to qualify for the office within 10 days after written demand by the Council, forfeiture of office or failure of

the Town to elect a person to the office. The Council shall, by resolution, declare the office of that Councilor vacant.

Summary: Section 202 is amended to create an exception to the current prohibition on Town employees serving on the Town Council for on-call non-ranking firefighters and fire police. This amendment would not change common law limitations on a Town Councilor's participating in matters that affect the Councilor's interests as an employee of the Town, e.g., salary and benefits.

Charter Commission Vote: Unanimous

ITEM – 3a

204.1 Appoint the Town Manager, in accordance with Section 217 hereof, and appoint the Assessor, Town Attorney, members of the Board of Assessment Review, the Board of Zoning Appeals, the Planning Board and may establish rules and guidelines for organization, attendance and administration of such advisory boards, commissions and committees. It may remove the Town Manager in accordance with Section 217 hereof and may remove any of the other above appointees after reasonable ~~providing 30 days~~ written notice of such intent, with reasons therefore, and providing the appointee an opportunity for hearing;

Summary: Section 204.1 is amended to change the notice provision for removal of committee and board members from 30 days to a reasonable period of time and makes other changes regarding boards and committees which are technical in nature.

Charter Commission Vote: Unanimous

ITEM – 3b

204.1 Appoint the Town Manager, in accordance with Section 217 hereof, and appoint the ~~Assessor,~~ Town Attorney, the Board of Assessment Review, the Board of Appeals, the Planning Board and all other statutory and advisory boards, commissions and committees. It may remove the Town Manager in accordance with Section 217 hereof and may remove any of the other above appointees after providing 30 days written notice of such intent, with reasons therefore, and providing the appointee an opportunity for hearing;

Summary: Section 204.1 is amended to change the appointing authority for the position of Assessor from the Town Council to the Town Manager. See section 601 for a companion amendment.

Charter Commission Vote: 4 in favor; 3 against; 1 abstention and (1 Commissioner absent)

ITEM - 4

Sec. 204.4 Inquire into the conduct of any office, department or agency of the Town and inquire of or make investigation as to municipal affairs;

Summary: Section 204.4 is amended to authorize the Town Council to make inquiries into the functioning of Town offices, agencies and departments without beginning a formal investigation.

Charter Commission Vote: Unanimous

ITEM - 5

Sec. 204.6 Regulate and restrict land use including but not limited to: the building height and number of stories, size and design of buildings and other structures, the size of yards and courts, the density of population and the location and use of land, buildings, and other structures for trade, industry, business, residence and other purposes;

Summary: Section 204.6 is amended to make technical changes to the language authorizing the Town Council to enact ordinances that affect land use in the Town.

Charter Commission Vote: Unanimous

ITEM - 6

Sec. 204.10 Adopt, modify and carry out plans and ordinances ~~proposed by the Planning Board~~ for the long-range planning, re-planning, improvement or and redevelopment of neighborhoods and other municipal areas and for the re-planning, reconstruction and redevelopment of any area or district which may have been destroyed in whole or in part by disaster;

Summary: Section 204.10 is amended to authorize the Town Council to enact and carry out plans and ordinances relating to land use within the Town and eliminates language suggesting that such plans must have first been proposed by the Planning Board.

Charter Commission Vote: Unanimous

ITEM - 7

Sec. 206. Induction of Council into office. The Town Council shall meet at the usual place for holding meetings at 8 P.M. on the 3rd Monday in June following the regular Town election or at such other time or day during that same week as the Town Clerk may choose for convenience of the Town Council, upon adequate notice to the public. ~~and at~~ At said meeting Councilors-elect shall be sworn to the faithful discharge of their duties by a notary public or by the Town Clerk.

Summary: Section 206 is amended to add flexibility with respect to the date for the first meeting of the new Town Council.

Charter Commission Vote: Unanimous

ITEM - 8

Sec. 208. Meetings. The Town Council shall, at its first meeting or as soon thereafter as possible, establish by ordinance or resolution a regular place and time for holding its regular meetings, and shall meet regularly at least once a month. It shall also provide a method for calling special meetings and workshop meetings. Public notice shall be given for all meetings of the Town Council in accordance with state law. Meetings of the Town Council shall be open to

the public in accordance with 1 M.R.S.A. Section 401 et seq. as amended and shall be recorded. ~~No failure to give public notice or to make record of any meeting at which no vote is taken shall invalidate any action of the Council.~~ Any communication with the Council as to the rezoning of land shall be open and available to the public.

Summary: Section 208 is amended to delete the last sentence which stated that failure to give public notice of a Town Council meeting at which no vote was taken would not invalidate any subsequent action by the Council. Deletion of this language will make clear what the law on this topic is, i.e., the consequence of failure to give notice is a matter of state law. This amendment also requires that any communication with the Council concerning the re-zoning of land must be available to the public and discussed in public.

Charter Commission Vote: 6 in favor; 2 against; and (1 Commissioner absent)

ITEM - 9

209.1 The Council may, by vote of 5 Councilors, after public notice, notice in writing to the chairperson and hearing, remove the chairperson with or without cause, provided that the chairperson may elect to waive public notice and/or public hearing.

Summary: Section 209.1 is amended to make it clear that the Town Council may vote to remove its Chair with or without cause, after providing notice and a hearing.

Charter Commission Vote: Unanimous

ITEM - 10

Sec. 210. Quorum. ~~A majority~~ Four members of the Town Council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time or may compel attendance of absent members. At least 24 hours' notice of the time and place of holding such adjourned meeting shall be given to all members who were not present at the meeting from which adjournment was taken.

Summary: Section 210 is amended to eliminate ambiguity concerning the Town Council quorum requirement and makes it clear that four (4) Council members constitute a quorum.

Charter Commission Vote: Unanimous

ITEM - 11

Sec. 213. Public Hearing on Ordinances. A proposed ordinance may be introduced in writing by any Councilor to the agenda of any regular or special meeting of the Council. Upon introduction of an ordinance, the clerk shall distribute a copy to each Councilor and to the Town Manager; and shall file a reasonable number of printed copies in the office of the clerk and the Falmouth Memorial Library; and shall cause to be published, in print, the wording of the proposed ordinance or a title descriptive of its contents and purpose, together with notice of the time and place of public hearing thereon. Except as otherwise required herein or by the laws of the State of Maine, documents may be distributed and made available to the public electronically. The public hearing shall follow the publication by at least 14 days, may be held

separately or in connection with a regular or special meeting of the Council and may be adjourned from time to time. All persons interested shall have a reasonable opportunity to be heard and shall be provided access to the same documents considered by the Council. An ordinance shall become effective upon its adoption by the Council or at such later time as it may specify. After the hearing the Council may adopt the ordinance with or without amendment or reject it; but in no case shall the ordinance be adopted or rejected in less than 14 days after the public hearing. If an ordinance is amended so as to change substantially its meaning, the Council may not adopt it until the ordinance or its amended sections have been subjected to all the procedures hereinbefore required in the case of a newly introduced ordinance. The above procedure may be waived only as provided in the following section dealing with emergency ordinances. The Council may enact rules controlling re-introduction of defeated ordinances.

Summary: Section 213 is amended to delete the Falmouth Memorial Library from the list of places where proposed ordinances must be posted. Copies are available and posted at the Town Hall. It also requires that the wording of proposed ordinances be published in print and that documents considered by the Town Council be made available to the public. It also allows documents to be made available to the public electronically.

Charter Commission Vote: Unanimous

ITEM – 12

Sec. 213.1 Notwithstanding any other provision of this Charter, to meet a public emergency affecting life or health or property or the public peace, the Council may adopt one or more emergency ordinances, with the statement of the emergency being a part of the preamble to the ordinance. The declaration of such emergency by the Council shall be conclusive. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least 5 Councilors shall be required for adoption. After adoption, the ordinance shall be ~~posted~~ made available to the public in the Town Hall, ~~the Falmouth Memorial Library~~ and such other places as the Council may designate. It shall become effective upon its adoption or at such later time as it may specify. Every emergency ordinance except one authorizing the issuance of emergency bonds or notes shall stand repealed as of the 61st day following the date of its adoption, but this shall not prevent the re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

Summary: Section 213.1 is amended to delete the Falmouth Memorial Library from the list of places where a proposed emergency ordinance must be posted. It requires that the proposed ordinance be posted in the Town Hall and otherwise be made available to the public.

Charter Commission Vote: Unanimous

ITEM - 13

Sec. 214. Town Clerk. The Town Clerk shall act as clerk of the Council and shall keep a public record of all proceedings of the Council, ~~including all roll-call votes.~~

Summary: Section 214 is amended to delete language regarding the Clerk's duty to keep records of roll call votes and thereby clarifies that the Clerk must keep records of all Council proceedings and eliminates the implication that the Council must vote by roll call.

Charter Commission Vote: Unanimous

ITEM - 14

Sec. 215. Independent annual audit. The Council shall designate the State Department of Audit or private certified public accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the Town government and shall submit their report to the Council, and the Town Manager. Such accountant shall not maintain any accounts or records of the Town business, but shall post-audit the books and documents kept by the Department of Finance and any separate or subordinate accounts kept by the Department of Finance and any separate or subordinate accounts kept by any other office, department, or agency of the Town government. The Council shall designate three or more members as a finance committee to review such auditing and to make an annual report and recommendations to the Council and the Town Manager regarding financial procedures and controls.

Summary: Section 215 is amended to require the Town Council to appoint three or more of its members as a finance committee which will review the annual audit and make a report and recommendations to the Council and the Town Manager on financial procedures and controls.

Charter Commission Vote: Unanimous

ITEM - 15

Sec. 216. Appointment or removal of Town Manager. The Council shall appoint an officer of the Town who shall have the title of Town Manager and shall have the powers and perform the duties described in this Charter. The Town Manager shall be appointed for a definite or an indefinite term and may be removed by a vote of a majority of the Town Council with or without cause. No Councilor shall receive such appointment during the term for which the Councilor shall have been elected, nor within one year after the expiration of the term, nor shall any Councilor act in that capacity.

Notwithstanding the foregoing, the Council, may, with the advice and review of the Town Attorney, enter into an employment contract with the Town Manager which contract may, without limitation, provide for reasonable and ordinary severance provisions and severance payments in the event that the Town Manager is removed without cause.

Summary: Section 216 is amended to incorporate the language of section 217 concerning appointment and removal of the Town Manager. This allows the repeal of section 217. Language is also added to section 216 to clarify that the Town Council has authority to enter into an employment contract with the Town Manager.

Charter Commission Vote: Unanimous

ITEM - 16

Sec. 217. ~~Repealed 2008 **Appointment and Removal of Town Manager.** The Council shall appoint the Town Manager for an indefinite term and may remove the Town Manager by a vote of a majority of its members with or without cause.~~

Summary: Section 217 is repealed in light of the transfer of its language to section 216.

Charter Commission Vote: Unanimous

ITEM - 17

Sec. 218. **Council not to interfere in appointments or removals.** The Town Manager shall have exclusive authority with respect to the hiring and firing of Town employees. Neither the Council nor any of its members shall direct or request the appointment of any person to or the removal from office by the Town Manager or by any subordinates. Except for the purpose of inquiry or investigation, and as part of an annual evaluation of the Town Manager, the Council and its members shall deal with the administrative service solely through the Town Manager, and neither the Council nor any member thereof shall give orders to any subordinates of the Town Manager, either publicly or privately.

Summary: Section 218 is amended to clarify the Town Manager's authority with respect to hiring and firing of Town employees. It also specifically authorizes the Town Council and its members to communicate directly with Town employees as part of the annual evaluation of the Town Manager.

Charter Commission Vote: Unanimous

ITEM - 18

Section 301. Town Manager

302.1 Appoint, prescribe the duties of, and, when necessary for the good of the service, remove all ~~officers and~~ employees of the Town, except as otherwise provided herein, and except as the Town Manager may authorize the head of a department or office to appoint and remove subordinates in such department or office. In addition to permitted Council communications pursuant to Section 218, the Town Manager may authorize municipal staff and agents to communicate with the Council or any of its members, if the Town Manager determines that such communication will facilitate the efficient or effective administration of the affairs of the Town.

The decision of the Town Manager, or other appointing officer, shall be final and there shall be no appeal therefrom to any other office or body except as allowed by State or Federal law;

Summary: Section 302.1 is amended to provide that the Town Manager may authorize Town employees and agents to communicate directly with the Town Council and its members on any topic if the Town Manager determines that the direct communication will facilitate effective or efficient administration of Town affairs.

Charter Commission Vote: Unanimous

ITEM - 19

302.4 Attend the meetings of the Council, ~~except when the Town Manager's removal is being considered,~~ and keep the Council advised of as to the business and financial condition and future needs of the Town and make such recommendations as may seem to the Town Manager desirable; and to furnish the Council with all available facts, figures, and data connected therewith when requested.

Summary: Section 302.4 is amended to remove language implying the Town Manager could not attend Town Council meetings considering the Manager's removal and adds language clarifying that the Town Manager shall furnish the Town Council with all available information on the business, financial needs and future needs of the Town when requested.

Charter Commission Vote: Unanimous

ITEM - 20

Sec. 303. Absence of Town Manager. ~~To perform the Town Manager's duties during a temporary absence or disability, the Town Manager may, with the consent of the Council, designate by letter filed with the Town Clerk, a qualified administrative officer of the Town. In the event of failure of the Town Manager to make such designation, the Council may by resolution appoint any administrative officer of the Town to perform the duties of the Town Manager until the Town Manager shall return or the disability shall cease. By letter filed with the Town Clerk the Town Manager shall designate, subject to approval by the Council, a qualified person to exercise the powers and perform the duties of the Town Manager during the Town Manager's temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another person to serve until the Town Manager shall return or the Town Manager's absence or disability shall cease. In the event of failure of the Town Manager to make such designation, the Council may by resolve or order appoint a qualified person to perform the duties of the Town Manager until the Town Manager shall return or until the Town Manager's disability shall cease.~~

Summary: Section 303 is amended to clarify the process for designating someone to act in the Town Manager's stead when the Manager is temporarily absent or disabled.

Charter Commission Vote: Unanimous

ITEM - 21

Sec. 406. Effect of School Consolidation. In the event that the Town becomes a member of a regional school unit, the provisions of this Article IV shall control to the extent not inconsistent with the approved Reorganization Plan and applicable law.

Summary: Section 406 is amended to provide that the provisions of the school district consolidation plan will prevail over any contradictory provisions in the Charter in the event that such a plan is enacted by the voters.

Charter Commission Vote: Unanimous

ITEM - 22

Sec. 504. Budget establishes amount to be raised by property tax; certification to Town Assessor. From the date of adoption of the budget, the amounts stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the Town in the corresponding tax year. A copy of the budget as finally adopted shall be certified by the Town ~~Manager~~ Clerk and filed by the Town ~~Manager~~ Clerk with the Town Assessor, whose duty it shall be to levy such taxes for the corresponding year.

Summary: Section 504 is amended to state that the budget adopted by the Town Council is certified by the Town Clerk and filed by the Clerk with the Town Assessor.

Charter Commission Vote: Unanimous

ITEM - 23

Sec. 508. Transfer of appropriations. At the request of the Town Manager, the Council may by resolution transfer an unencumbered appropriation balance or portion thereof including surplus between the general accounts, except as otherwise limited by voter referendum and the laws of the State of Maine.

Summary: Section 508 is amended to add language acknowledging that the authority of the Town Manager and Town Council to transfer funds among accounts may be limited by voter referendum and State law.

Charter Commission Vote: Unanimous

ITEM - 24

Sec. 509. Interim expenditures. In the period between the beginning of the fiscal year and the appropriations of funds, the Council may authorize expenditures for current departmental expenses chargeable to the appropriations for the year, when made, in amounts sufficient to cover the necessary expenses of the various departments, except as otherwise limited by voter referendum and the laws of the State of Maine.

Summary: Section 509 is amended to add language to acknowledge that the authority of the Town Council with respect to interim expenditures may be limited by voter referendum and State law.

Charter Commission Vote: Unanimous

ITEM - 25

Sec. 510. Effect of School Consolidation. If the Town becomes a member of a regional school unit, school budget approval shall be governed by applicable law.

Summary: Section 510 is added to the Charter to make it clear that school budgeting may be governed by State law if the Town becomes part of a regional school unit.

Charter Commission Vote: Unanimous

ITEM - 26

Sec. 601. Assessor. There shall be established a division of assessment, the head of which shall be the Town Assessor. The Town Manager shall have exclusive authority with respect to the appointment and firing of the Town Assessor. ~~The Town Assessor, appointed as hereinbefore provided,~~ shall exercise the same powers and be subject to the same duties and liabilities that similar officers of the several towns and cities in the State may exercise, and may now or hereafter be subject to, under the laws of the State of Maine.

Summary: Section 601 is amended, together with the amendment of section 204.1, to change the appointing authority for the Assessor from the Town Council to the Town Manager.

Charter Commission Vote: 4 in favor; 3 against; 1 abstention and (1 Commissioner absent)

ITEM - 27

Sec. 602. Board of Assessment Review; appointments; vacancies. There shall be a Board of Assessment Review to consist of five (5) members who shall be appointed by the Town Council, for a term of three (3) years. All members shall be appointed for terms of three (3) years or until their successors are duly appointed and qualified. ~~No member of the Board of Assessment shall be eligible for appointment to more than two consecutive terms.~~ Compensation, if any, to such members shall be determined by the Town Council. Vacancies in the membership of such board shall be filled by appointment by the Council for the unexpired term. For purposes of this section, appointment to an unexpired term of less than eighteen (18) months shall not be considered a term.

Summary: Section 602 is amended to remove the term limits for members of the Board of Assessment Review, which by ordinance also serves as the Sewer Appeals Board. It also adds language concerning the definition of a “term” in order to be consistent with other Charter provisions.

Charter Commission Vote: Unanimous

ITEM - 28

Sec. 701. Planning Board. There shall be a Town Planning Board which shall be appointed, have such powers and perform such duties as are provided by the laws of the State of Maine and the ordinances duly adopted by the Council. ~~No Members~~ of the Planning Board shall be eligible for ~~more than two~~ three consecutive three-year terms, except as otherwise provided by the laws of the State of Maine. For the purposes of this section, an appointment as an alternate member or an appointment to an unexpired term of less than 18 months shall not be considered a term.

Summary: Section 701 is amended to change the number of consecutive terms that a Planning Board member may serve from two to three.

Charter Commission Vote: Unanimous

ITEM - 29

Sec. 703. Board of Zoning Appeals. There shall be a Board of Zoning Appeals which shall be appointed, have such powers and perform such duties as are provided by the laws of the State of Maine and ordinances duly adopted by the Council. ~~No Members~~ of the Board of Zoning Appeals shall be eligible for ~~more than two~~ three consecutive three-year terms, except as otherwise provided by the laws of the State of Maine.. For the purposes of this section, an appointment as an alternate member or an appointment to an unexpired term of less than 18 months shall not be considered a term.

Summary: Section 703 is amended to change the number of consecutive terms that a Board of Zoning Appeals may serve from two to three and adds the word “Zoning” to the name of the Board.

Charter Commission Vote: Unanimous

ITEM - 30

Sec. 704. Long Range Planning Committee. There shall be a Long Range Planning Committee which shall be appointed, and have such powers and perform such duties as are provided by the laws of the State of Maine and ordinances duly adopted by the Council. Members of the Long Range Planning Committee shall be eligible for three consecutive three-year terms. For the purposes of this section, an appointment as an alternate member or an appointment to an unexpired term of less than 18 months shall not be considered a term.

Summary: Section 704 is added to the Charter to create a Long Range Planning Committee that will have the duties assigned to it by ordinance and statute.

Charter Commission Vote: Unanimous

ITEM - 31

Sec. 801. Municipal elections. The regular election for members of the Town Council and the School Board shall be held on the second Tuesday in June. The Council may, by resolution, order a special election ~~at any time~~ to fill vacancies in the Council or for any other lawful purpose provided that, except for State required budget validation referendums, such special election may not be held less than sixty (60) days before or sixty (60) days after a regular municipal election or state election. If the Town becomes a member of a regional school unit, the election for members of the school board for the regional school unit shall be held in accordance with the Reorganization Plan and the laws of the State of Maine.

Summary: Section 801 is amended to require that special municipal elections be held not less than 60 days before or 60 days after a regular municipal election. This limitation would not

apply to State required school budget referendums. It also provides that, in the event that school district consolidation is enacted by the voters, the elections for school board shall be held in accordance with State law.

Charter Commission Vote: Unanimous

ITEM - 32

Sec. 802. Nomination. Registered voters of the Town, ~~regardless of whether they be political caucus nominees or unenrolled voters,~~ shall be nominated for the Council or School Board by use of nomination papers in accordance with the State Statutes governing Town elections. In no event shall a candidate's political affiliation appear on the Town ballot.

Summary: Section 802 is amended to make it clear that nomination to the Town Council or School Board shall be nomination papers only and that a candidate's party affiliation, if any, may not appear on the ballot.

Charter Commission Vote: Unanimous

ITEM - 33

Sec. 901. Petition for overrule of action of Council. The following shall be subject to overrule by referendum as follows:

901.1 All ordinances;

901.2 Orders or resolves authorizing bond issues and/or appropriations in excess of appropriating \$200,000 or more for a single capital improvement, including: buildings; infrastructure improvements or expansion; major equipment; and land;

~~901.3 Orders or resolves authorizing bond issues of \$200,000 or more for capital improvements.~~

If, within ~~20~~ 60 days after the enactment of any such ordinance, order of resolve, a petition signed by not less than 10% of the registered voters of the Town of Falmouth is filed with the Town Clerk requesting its reference to a referendum, the Council shall call a public hearing to be held within 30 days from the date of the filing of such petition with the Town Clerk, and shall within 30 days after said public hearing call a special Town election for the purpose of submitting to a referendum vote the question of adopting such ordinance, order or resolve. Pending action by the voters of the Town, the referred ordinance, order or resolve shall be suspended from operation until it has received a vote of the majority of the voters voting on said question.

Summary: Section 901 is amended to give further definition to the term "capital improvement" so as to include buildings, infrastructure improvements and expansions, major equipment and land. It also changes from 20 days to 60 days the time period within which to gather signatures on a petition to overrule Town Council approval of a bond issue or appropriation in excess of \$200,000 for a single capital improvement.

Charter Commission Vote: Unanimous

ITEM - 34

Sec. 902. Petition for enactment of ordinances. Not less than 10% of the registered voters of the Town may at any time petition for the enactment of any proposed lawful ordinance by filing such petition, including the complete text of such ordinance, with the Town Clerk. The Council shall call a public hearing to be held within 30 days from the date of the filing of such petition with the Town Clerk, and shall within 30 days after said public hearing call a special Town election for the purpose of submitting to a referendum vote the question of adopting such ordinance, unless prior to the call for said Town election, such ordinance shall be enacted by the Council. Such ordinance shall take effect on the 10th day after the conclusion of such referendum, provided a majority of those voting hereon shall have voted in the affirmative.

Any such proposed ordinance shall be timely examined by the Town Attorney before being submitted to referendum. The Town Attorney is authorized to correct the form of such proposed ordinance for the purpose of avoiding repetitions, illegalities and unconstitutional provisions, and to assure accuracy in its text and references and clearness and preciseness in its phraseology, but the Town Attorney shall not materially change its meaning and effect.

Summary: Section 902 is amended to require that the Town Attorney's review of a petition for enactment of an ordinance be "timely."

Charter Commission Vote: Unanimous

ITEM - 35

Sec. 903. Referendum on Certain Expenditures. The Town Council shall submit any order or resolve appropriating ~~\$400,000~~ \$1,000,000 or more of funds raised pursuant to the Town's power of taxation for a single capital improvement or for a single item of equipment and any order, resolve or ordinance authorizing general obligation bond issues of ~~\$400,000~~ \$1,000,000 or more for capital improvements or for equipment to the voters at a regular or special election following at least one public hearing. These provisions shall apply whether or not payment for the capital improvements or single item of equipment is to be made in more than one fiscal year. The question shall be submitted to the voters at the next regular municipal election held not less than 30 days after the order, resolve or ordinance is passed; or the Council may order that the question be submitted to the voters at a special election to be held not less than 30 days from the date of the order, resolve or ordinance. In order for the question to be passed, a majority of the votes cast must favor passage and the total number of votes cast for and against the question must equal or exceed 10% of the registered voters in the Town.

Summary: Section 903 is amended to raise from \$400,000 to \$1,000,000 the threshold amount for single item expenditures and for bonding which must be submitted to referendum and to establish a minimum voter participation in the referendum of 10% of the registered voters in the Town.

Charter Commission Vote: Unanimous

ITEM - 36

Sec. 903.1 Defeated bond issues and appropriations. Every bond issue and appropriation submitted to the voters by the Council or by petition at a regular or special election under Article IX Sections 901 and 903 which fails of passage shall not be presented to the voters a second time in the same or substantially the same form until the twelfth month following the date of the election at which it was defeated, unless otherwise provided by the laws of the State of Maine pertaining to a regional school unit of which the Town is a member.

Summary: Section 903.1 is amended to clarify that State law on resubmitting defeated bond issues to the voters in a regional school unit will control that issue if the Town becomes a member of a regional school unit.

Charter Commission Vote: Unanimous

ITEM - 37

Sec. 905. Procedures for Recall. Any five qualified voters may begin at any time proceedings to recall a Councilor, School Board member or other elected official by a request in writing to the Town Clerk for appropriate petition blanks. These voters shall be referred to as the recall committee. All copies of the petition shall contain a statement of the reason or reasons for recall and the names of the recall committee. Each petition shall be limited to the recall of a single individual.

905.1 The recall committee shall have 30 days from the date of issuance of appropriate petition blanks to cause the petition to be signed by ~~25~~10% of the ~~qualified number of registered voters of the Town.~~ The petition shall be signed in the presence of the Town Clerk or of a ~~qualified voter~~ registered voter of the Town who shall certify to the validity of the signatures collected. Within 10 days after the circulation period ends the Town Clerk shall certify to the Town Council as to whether the petition has been signed by not less than ~~25~~10% of the ~~qualified number of registered~~ voters. Should less than ~~25~~10% of such voters sign the petition, the petition shall have no further force or effect, and no new petition action for recall of the same person can be initiated until 180 days from the end of the previous filing period.

905.2 Upon receipt of certification the Town Council shall within ~~30~~ sixty (60) days submit to the voters the question of recall. The Councilor, School Board member or other elected official shall be recalled when a majority of those voting thereon have voted in the affirmative. Any elected official against whom recall proceedings have been initiated may continue to hold office until recalled and shall have the privilege of seeking election to the same or any other office at any election after the date of recall.

Summary: Sections 905.1 and 905.2 are amended to reduce the number of signatures required on a recall petition and require the recall election to be held within 60 days of receiving certified petitions.

Charter Commission Vote: Unanimous

ITEM - 38

Sec. 1001. Repealed 2008 Repealing clause. All acts and parts of acts of the private and special laws of Maine relating to the Town of Falmouth, inconsistent with the provisions of this Charter, are repealed. (superseded.)

Summary: Section 1001 is obsolete and is no longer necessary.

Charter Commission Vote: Unanimous

ITEM - 39

Sec. 1005. Repealed 2008 ~~Summons before Town Council.~~ The clerks of the Supreme Judicial and Superior Courts may issue summons for witnesses to attend and produce books, documents and papers at any meeting of the Town Council for the Town of Falmouth at which a hearing is had in any matter regarding any alleged dereliction, which summons shall be served as required to be sufficient in matters before the Supreme Judicial or Superior Courts. On complaint of failure to obey summons to the Maine Superior Court which court is expressly given jurisdiction to hear such complaints, said court if it finds failure to obey said summons to be without reasonable excuse, shall impose a fine of not less than \$10 nor more than \$100, or by imprisonment for not more than 30 days, or by both. All rights of appeal are to be available as exist in the general laws of the State of Maine.

Summary: Section 1005 is obsolete and no longer necessary.

Charter Commission Vote: Unanimous

Appendix A

Council-Manager Charter of Town of Falmouth, Maine ~~Revised April 15, 1998~~ August 2008

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Council-Manager Charter of Town of Falmouth
Revised April 15, 1998August 2008

All power is inherent in the people; all free governments are founded in their authority and instituted for their benefit; they have therefore an unalienable and indefeasible right to institute government, and to alter, reform, or totally change the same, when their safety and happiness require it.

Article I.

Grant of Powers to the Town.

Sec. 101. Incorporation. The inhabitants of the Town of Falmouth, within the limits as now established or as hereafter established in the manner provided by law, shall be a municipal corporation by the name of the Town of Falmouth, Maine.

Sec. 102. Powers of the Town. The Town shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises, and shall be subject to all the duties, liabilities and obligations, provided for herein, or otherwise pertaining to or incumbent upon said Town as a municipal corporation, or the inhabitants or municipal authorities thereof; it may enact by-laws, regulations and ordinances not inconsistent with the Constitution and laws of the State of Maine, and impose penalties for the breach thereof to be recovered to the use of said Town by appropriate action. Except as otherwise provided by state law, such penalties shall be determined or set by ordinance.

The Town may acquire property within or without its corporate limits for any Town purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and may sell, lease, mortgage, hold, manage and control such property as its interest may require.

In this Charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the Town would have if the particular power were not mentioned. The Charter shall be liberally construed to the end that the Town may have all the powers necessary or convenient for the conduct of its municipal affairs, including all powers the Town may assume pursuant to state laws and to the provisions of the State Constitution.

The Town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more persons, corporations, states or civil divisions or agencies thereof, or with the United States or any agency thereof.

Article II.

Town Council.

Sec. 201. Number, election, term. The Town Council shall be composed of 7 members, each of whom shall be elected by the registered voters of the entire Town. Each member shall be elected for a term of 3 years and until a successor is elected and qualified. No member of the Council shall be eligible for re-election for more than two consecutive terms. For purposes of this section, election is to an unexpired term of less than 18 months shall not be considered a term.

Sec. 202. Qualifications. Councilors shall be qualified electors of the Town and shall have their principal place of residence in the Town during their terms of office. No Councilor shall hold any paid office or position of employment with the Town except for on-call, non-ranking employees of the Fire/EMS Department and members of the Fire Police. If a Councilor shall cease to possess any of these qualifications or shall be convicted of a crime involving moral turpitude, the Council shall, by resolution, declare the office of that Councilor ~~shall immediately become~~ vacant.

The office of Councilor shall become vacant upon resignation, death, recall, failure to qualify for the office within 10 days after written demand by the Council, forfeiture of office or failure of the Town to elect a person to the office. The Council shall, by resolution, declare the office of that Councilor vacant.

Sec. 203. Powers and duties. The members of the Town Council shall be and constitute the municipal officers of the Town of Falmouth for all purposes required by statute, and except as otherwise herein specifically provided, shall have all powers and authority given to, and perform all duties required of, municipal officers under the laws of this State.

Sec. 204. Enumeration of Powers. Without limitation of the foregoing, the Council shall have power to:

Option 1

204.1 Appoint the Town Manager, in accordance with Section 217 hereof, and appoint the Assessor, Town Attorney, members of the Board of Assessment Review, the Board of Zoning Appeals, the Planning Board, and may establish rules and guidelines for organization, attendance and administration of such advisory boards, commission and committees. It may remove the Town Manager in accordance with Section 217 hereof and may remove any of the above appointees after reasonable ~~providing 30 days~~ written notice of such intent, with reasons therefore, And providing the appointee an opportunity for hearing;

Option 2

204.1 Appoint the Town Manager, in accordance with Section 217 hereof, and appoint the ~~Assessor~~, Town Attorney, the Board of Assessment Review, the Board of Zoning Appeals, the Planning Board and all other statutory and advisory boards, commissions and committees. It may remove the Town Manager in accordance with Section 217 hereof and may remove any of the other above appointees after providing 30 days written notice of such intent, with reasons therefore, and providing the appointee an opportunity for hearing;

204.2 By ordinance create, change and abolish offices, departments or agencies, other than the offices, department and agencies established by this Charter. The Council by ordinance may assign additional functions or duties to offices, departments or agencies established by this Charter but may not discontinue or assign to any other office, department or agency any function or duty assigned by this Charter to a particular office, department or agency. The Council may, however, vest in the Town Manager all or part of the duties of any office except the Department of Education;

204.3 Make, alter and repeal ordinances to the full extent permitted under the Home Rule authority granted to municipalities under the Maine Constitution and statutes;

204.4 Inquire into the conduct of any office, department or agency of the Town and inquire of or make investigation as to municipal affairs;

204.5 Adopt and modify the official maps of the Town;

204.6 Regulate and restrict land use including but not limited to: the building height and number of stories, size and design of buildings and other structures, the size of yards and courts, the density of population and the location and use of land, buildings, and other structures for trade, industry, business, residence and other purposes;

204.7 Provide for safe and sanitary housing accommodations for families of low income;

204.8 Create a housing authority;

204.9 **Repealed. 1998;**

204.10 Adopt, modify and carry out plans and ordinances ~~proposed by the Planning Board~~ for the long-range planning, re-planning, improvement or ~~and~~ redevelopment of neighborhoods and other municipal areas and for the re-planning, reconstruction and redevelopment of any area or district which may have been destroyed in whole or in part by disaster;

204.11 Act as the general legislative body of the Town with all the powers of a Town meeting. The Town Council may not delegate any of the legislative powers conferred by this Charter or by law to any official of the Town or to any statutory or advisory board, commission or committee;

204.12 Sell, exchange or donate, surplus property of the Town, both real and personal. Except as provided by ordinance, any sale shall be preceded by a competitive bidding process with publication and invitations to bid at least 30 days prior to the opening of the bids. The Council may, at its discretion, accept or reject any such bid or bids.

Sec. 205. Compensation. The Town Council by ordinance shall determine the compensation of Councilors and members of the School Board. No increase in compensation shall take effect until the next Town fiscal year. The Town Council, by specific order, shall set the compensation of its appointees. Salaries of the appointees of the Town Manager shall be set by the Town Manager.

Sec. 206. Induction of Council into office. The Town Council shall meet at the usual place for holding meetings at 8 P.M. on the 3rd Monday in June following the regular Town election or at such other time or day during that same week as the Town Clerk may choose for convenience of the Town Council, upon adequate notice to the public. and at At said meeting Councilors-elect shall be sworn to the faithful discharge of their duties by a notary public or by the Town Clerk.

Sec. 207. Council to judge qualifications of its members. The Council shall be the judge of the election and qualifications of its members and for such purpose shall have power to subpoena witnesses and to require production of records, but the decision of the Council in any such case shall be subject to review by the courts.

Sec. 208. Meetings. The Town Council shall, at its first meeting or as soon thereafter as possible, establish by ordinance or resolution a regular place and time for holding its regular meetings, and shall meet regularly at least once a month. It shall also provide a method for calling special meetings and workshop meetings. Public notice shall be given for all meetings of the Town Council in accordance with state law. Meetings of the Town Council shall be open to the public in accordance with 1 M.R.S.A. Section 401 et seq. as amended and shall be recorded. ~~No failure to give public notice or to make record of any meeting at which no vote is taken shall invalidate any action of the Council.~~ Any communication with the Council as to the rezoning of land shall be open and available to the public.

Sec. 209. Chairperson. At its first meeting or as soon thereafter as practicable the Council shall elect, by majority vote of the entire Council, one of its members for the ensuing year as chairperson and one of its members as vice-chairperson, and the Council shall fill, for an unexpired term, any vacancy in the office of chairperson or vice-chairperson that may occur. The chairperson shall be recognized as head of the Town

government for all ceremonial purposes and by the Governor for purposes of military law, but the chairperson shall have no regular administrative duties. In the temporary absence or disability of the chairperson, the vice-chairperson shall exercise all the powers of the chairperson during such temporary absence or disability of the chairperson. It shall be the duty of the chairperson to (1) preside at all meetings of the Council; (2) develop, after consultation with the Town Manager, agenda for Council meetings, provided that no Councilor shall be denied the right to place an item on the agenda; (3) after consultation with the Council, represent the Council in all dealings with the Town Manager and with all statutory and advisory boards, commissions and committees in person or by delegation.

209.1 The Council may, by vote of 5 Councilors, after public notice, notice in writing to the chairperson and hearing, remove the chairperson with or without cause, provided that the chairperson may elect to waive public notice and/or public hearing.

Sec. 210. Quorum. ~~A majority~~ Four members of the Town Council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time or may compel attendance of absent members. At least 24 hours' notice of the time and place of holding such adjourned meeting shall be given to all members who were not present at the meeting from which adjournment was taken.

Sec. 211. Vacancies in Council. If a seat in the Council becomes vacant more than 6 months prior to the next regular Town election, the vacancy shall be filled for the unexpired term within 60 days from the date that the vacancy occurred by a special election, the warrant for which shall, upon the vote of the Town Council, be issued by a member of the Town Council, by vote designated for that duty.

Sec. 212. Rules of procedure; journal. The Council shall determine its own rules and order of business. It shall keep a record of its proceedings and the record shall be open to public inspection.

Sec. 213. Public Hearing on Ordinances. A proposed ordinance may be introduced in writing by any Councilor to the agenda of any regular or special meeting of the Council. Upon introduction of an ordinance, the clerk shall distribute a copy to each Councilor and to the Town Manager; and shall file a reasonable number of printed copies in the office of the clerk and the Falmouth Memorial Library; and shall cause to be published, in print, the wording of the proposed ordinance or a title descriptive of its contents and purpose, together with notice of the time and place of public hearing thereon. Except as otherwise required herein or by the laws of the State of Maine, documents may be distributed and made available to the public electronically. The public hearing shall follow the publication by at least 14 days, may be held separately or in connection with a regular or special meeting of the Council and may be adjourned from time to time. All persons interested shall have a reasonable opportunity to be heard, and shall be provided access to the same documents considered by the Council. An ordinance shall become effective upon its adoption by the Council or at such later

time as it may specify. After the hearing the Council may adopt the ordinance with or without amendment or reject it; but in no case shall the ordinance be adopted or rejected in less than 14 days after the public hearing. If an ordinance is amended so as to change substantially its meaning, the Council may not adopt it until the ordinance or its amended sections have been subjected to all the procedures hereinbefore required in the case of a newly introduced ordinance. The above procedure may be waived only as provided in the following section dealing with emergency ordinances. The Council may enact rules controlling re-introduction of defeated ordinances.

213.1 Notwithstanding any other provision of this Charter, to meet a public emergency affecting life or health or property or the public peace, the Council may adopt one or more emergency ordinances, with the statement of the emergency being a part of the preamble to the ordinance. The declaration of such emergency by the Council shall be conclusive. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least 5 Councilors shall be required for adoption. After adoption, the ordinance shall be ~~posted~~ made available to the public in the Town Hall, ~~the Falmouth Memorial Library~~ and such other places as the Council may designate. It shall become effective upon its adoption or at such later time as it may specify. Every emergency ordinance except one authorizing the issuance of emergency bonds or notes shall stand repealed as of the 61st day following the date of its adoption, but this shall not prevent the re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

Sec. 214. Town Clerk. The Town Clerk shall act as clerk of the Council and shall keep a public record of all proceedings of the Council, ~~including all roll-call votes.~~

Sec. 215. Independent annual audit. The Council shall designate the State Department of Audit or private certified public accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the Town government and shall submit their report to the Council, and the Town Manager. Such accountant shall not maintain any accounts or records of the Town business, but shall post-audit the books and documents kept by the Department of Finance and any separate or subordinate accounts kept by the Department of Finance and any separate or subordinate accounts kept by any other office, department, or agency of the Town government. The Council shall designate one or more members as a finance committee to review such auditing and to make an annual report and recommendations to the Council and the Town Manager regarding financial procedures and controls.

Sec. 216. Appointment or removal of Town Manager. The Council shall appoint an officer of the Town who shall have the title of Town Manager and shall have the powers and perform the duties described in this Charter. The Town Manager shall be

appointed for a definite or an indefinite term and may be removed by a vote of a majority of the Town Council with or without cause. No Councilor shall receive such appointment during the term for which the Councilor shall have been elected, nor within one year after the expiration of the term, nor shall any Councilor act in that capacity.

Notwithstanding the foregoing, the Council, may, with the advice and review of the Town Attorney, enter into an employment contract with the Town Manager which contract may, without limitation, provide for reasonable and ordinary severance provisions and severance payments in the event that the Town Manager is removed without cause.

Sec. 217. ~~Repealed 2008 **Appointment and Removal of Town Manager.** The Council shall appoint the Town Manager for an indefinite term and may remove the Town Manager by a vote of a majority of its members with or without cause.~~

Sec. 218. Council not to interfere in appointments or removals. The Town Manager shall have exclusive authority with respect to the hiring and firing of Town employees. Neither the Council nor any of its members shall direct or request the appointment of any person to or the removal from office by the Town Manager or by any subordinates. Except for the purpose of inquiry or investigation, and as part of an annual evaluation of the Town Manager, the Council and its members shall deal with the administrative service solely through the Town Manager, and neither the Council nor any member thereof shall give orders to any subordinates of the Town Manager, either publicly or privately.

Sec. 219. Periodic Charter Review. At least once every 10 years, the Town Council shall, on its own motion and without requiring a petition, create a Charter Review Commission in the manner prescribed by the Home Rule statute, 30-A M.R.S.A. Section 2102 et seq.

Article III.

Town Manager.

Sec. 301. Town Manager, qualifications. The Town Manager shall be chosen by the Council solely on the basis of character and executive and administrative qualifications with special reference to actual experience in, or knowledge of accepted practice in respect to the duties of office as hereinafter set forth. At the time of appointment, the Town Manager need not be a resident of the Town or State.

Sec. 302. Town Manager; chief administrator. The Town Manager shall be the chief administrative officer and the head of the administrative branch of the Town government, and shall be responsible to the Council for the proper administration of all affairs of the Town. The Town Manager shall have the power and shall be required to:

302.1 Appoint, prescribe the duties of, and, when necessary for the good of the service, remove all ~~officers and~~ employees of the Town, except as otherwise provided herein, and except as the Town Manager may authorize the head of a department or office to appoint and remove subordinates in such department or office. In addition to permitted Council communications pursuant to Section 218, the Town Manager may authorize municipal staff and agents to communicate with the Council or any of its members, if the Town Manager determines that such communication will facilitate the efficient or effective administration of the affairs of the Town.

The decision of the Town Manager, or other appointing officer, shall be final and there shall be no appeal therefrom to any other office or body except as allowed by State or Federal law;

302.2 Prepare the budget annually, submit it to the Council and be responsible for its administration after adoption;

302.3 Prepare and submit to the Council, as promptly as possible, at the end of the fiscal year a complete report on the finances of the Town for the preceding fiscal year, and further cause, as promptly as possible, an annual Town Report to be published and made available to the public after the end of the calendar year;

302.4 Attend the meetings of the Council, ~~except when the Town Manager's removal is being considered,~~ and keep the Council advised of as to the business and financial condition and future needs of the Town ~~and make such recommendations as may seem to the Town Manager desirable; and to furnish the Council with all available facts, figures, and data connected therewith when requested.~~

302.5 See that all laws and ordinances governing the Town are faithfully executed;

302.6 Act as purchasing agent for all departments of the Town, except the School Department;

302.7 Perform such other duties as may be prescribed by this Charter or required of the Town Manager by the Council, not inconsistent with this Charter;

302.8 Repealed. 1998.

Sec. 303. Absence of Town Manager. ~~To perform the Town Manager's duties during a temporary absence or disability, the Town Manager may, with the consent of the Council, designate by letter filed with the Town Clerk, a qualified administrative officer of the Town. In the event of failure of the Town Manager to make such designation, the Council may by resolution appoint any administrative officer of the Town to perform the duties of the Town Manager until the Town Manager shall return or~~

~~the disability shall cease.~~ By letter filed with the Town Clerk the Town Manager shall designate, subject to approval by the Council, a qualified person to exercise the powers and perform the duties of the Town Manager during the Town Manager's temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another person to serve until the Town Manager shall return or the Town Manager's disability shall cease. In the event of failure of the Town Manager to make such designation, the Council may by resolve or order appoint a qualified person to perform the duties of the Town Manager until the Town Manager shall return or until the Town Manager's disability shall cease.

Sec. 304. Reserved.

Sec. 305. Health Officer. The Town Manager may appoint for an indefinite term a health officer who shall exercise such powers and perform such duties as may be conferred or imposed by law. The health officer shall meet such qualifications as may be specified generally for such positions by the State Commissioner of Human Services.

Article IV.

Department of Education

Sec. 401. Board of Education - Number, Election and Term. The Department of Education shall be administered by a board of education hereafter referred to as the School Board which shall consist of seven (7) duly qualified electors of the Town of Falmouth who shall be nominated and elected by the registered voters of the entire Town according to the provisions of Article VIII of this Charter. Members shall be elected for a term of 3 years and shall serve until their successors are elected and qualified.

No member of the School Board shall be eligible for re-election for more than two consecutive terms. For purposes of this section, election to an unexpired term of less than 18 months shall not be considered a term. To insure continuity of service on the School Board, no fewer than two and no more than three members shall be elected annually for a full term. Except as otherwise provided by this Charter, the provisions of the statutes of the State of Maine relating to School Committee Members shall apply.

Sec. 402. Qualifications. Members of the School Board shall be qualified electors of the Town and shall have their principal place of residence in the Town during their terms of office. No School Board_member shall hold any paid office or position of employment with the School Department. If a member of the School Board ceases to possess any of these qualifications or shall be convicted of a crime involving moral turpitude, the office of that School Board member shall immediately become vacant.

The office of a member of the School Board shall also become vacant upon resignation, death, recall, failure to qualify for the office within 10 days after written demand by the Council, forfeiture of office or failure of the municipality to elect a person to the office.

Sec. 403. Vacancy. If a seat on the School Board becomes vacant for any reason more than 90 days prior to the next regularly scheduled municipal election, it shall be filled until the next municipal election by a majority vote of the Council.

Sec. 404. Organization; qualifications; quorum. The members of the School Board shall meet for organization within fourteen days from the date of their election. The members-elect shall be sworn to the faithful discharge of their duties by a notary public or by the Town Clerk, and record made thereof. The majority of the whole number of the School Board shall be a quorum and they shall elect their own chairperson.

Sec. 405. Powers and duties. The School Board shall have all the powers conferred and shall perform all the duties imposed by law upon superintending school committees in regard to the care and management of the public schools of the Town, except as otherwise provided in this Charter. The School Board shall prepare budget estimates in detail of the several sums required during the ensuing budget year for the support of the public schools and at least 45 days before the beginning of the budget year, the School Board shall furnish copies of such estimates to the Town Manager. All meetings of the School Board shall have due public notice and shall be recorded. No failure to give public notice or to make record of any meeting at which no vote is taken shall invalidate any action of the Board.

Sec. 406. Consolidation of the Department of Education with other school districts. In the event that the Town becomes a member of a regional school unit, the provisions of this Article IV shall control to the extent not inconsistent with the approved Reorganization Plan and applicable law.

Article V.

Budget.

Sec. 501. Fiscal year. The fiscal year of the Town government shall begin the first day of July and shall end the 30th day of June of each calendar year. Such fiscal year shall constitute the budget and accounting year as used in this chapter. The term "budget year" shall mean the fiscal year for which any particular budget is adopted and in which it is administered.

Sec. 502. Preparation and submission of the budget. The Town Manager, at least 35 days prior to the beginning of each budget year, shall submit to the Council a budget and an explanatory budget message. The budget authority of the Council shall be limited to the final determination of the total appropriation to be made to each of the

several offices, departments and agencies of the Town including the department of education. This budget shall be compiled from detailed information furnished by the administrative officers and boards on blanks, forms of which shall be designated by the Town Manager, and shall contain:

502.1 Exact statement of the financial condition of the Town including all dedicated and undedicated fund balances;

502.2 An itemized statement of appropriations recommended for current expenses, and for permanent improvements; with comparative statements in parallel columns of estimated expenditures for the current year and actual expenditures for the immediately preceding fiscal year. An increase or decrease in any items shall be indicated;

502.3 An itemized statement of estimated revenue from all sources, other than taxation; and statement of taxes required, comparative figures from current and next preceding year;

502.4 Such other information as may be required by the Town Council.

The proposed budget prepared by the Town Manager shall be reviewed by the Town Council which shall approve the budget with or without amendments. The Town Council shall fix the time and place for holding a public hearing on such budget, and shall give a public notice of such hearing. The Council shall thereafter review the budget and adopt it, with or without change, no later than 60 days from the beginning of the fiscal year. In the event the Council shall fail to adopt the budget within said 60-day period, the budget as presented by the Town Manager shall automatically become the budget for the fiscal year.

Sec. 503. Budget establishes appropriations. From the date of adoption of the budget, the several amounts stated therein as proposed appropriations shall be and become appropriated to the several agencies, departments and purposes therein named.

Sec. 504. Budget establishes amount to be raised by property tax; certification to Town Assessor. From the date of adoption of the budget, the amounts stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the Town in the corresponding tax year. A copy of the budget as finally adopted shall be certified by the Town ~~Manager~~ Clerk and filed by the Town ~~Manager~~ Clerk with the Town Assessor, whose duty it shall be to levy such taxes for the corresponding year.

Sec. 505. Budget summary. At the head of the budget there shall appear a summary of the budget, which need not be itemized further than by principal sources of anticipated revenue, stating separately the amount to be raised by property tax, and shall be itemized also by departments and kinds of expenditures, in such a manner as

to present to taxpayers a simple and clear summary of the detailed estimates of the budget.

Sec. 506. Expenditures and departmental revenue. The budget for all departments, including the school department, shall include all proposed expenditures. The Town Council shall make a gross appropriation for each department, including the school department, for the ensuing municipal year. The gross appropriation for each department shall not be exceeded except by consent of the Council and subject to the provisions of Section 902, but the school budget shall be expended under the direction and control of the School Board.

Sec. 507. Work program; allotments. Before the beginning of the budget year, the head of each office, department or agency shall submit to the Town Manager, when required by the Town Manager, a work program of the year, which program shall show the requested allotments of appropriations for such office, department or agency, by stated periods, for the entire budget year. The Town Manager shall review the requested allotments in the light of the work program of the office, department or agency concerned, and may revise, alter or change such allotments before approving the same. The aggregate of such allotments shall not exceed the total of appropriations available to said office, department or agency for the budget year.

Sec. 508. Transfer of appropriations. At the request of the Town Manager, the Council may by resolution transfer an unencumbered appropriation balance or portion thereof including surplus between the general accounts, except as otherwise limited by voter referendum and the laws of the State of Maine.

Sec. 509. Interim expenditures. In the period between the beginning of the fiscal year and the appropriations of funds, the Council may authorize expenditures for current departmental expenses chargeable to the appropriations for the year, when made, in amounts sufficient to cover the necessary expenses of the various departments, except as otherwise limited by voter referendum and the laws of the State of Maine.

Sec. 510. Effect of School Consolidation. If the Town becomes a member of a regional school unit, school budget approval shall be governed by applicable law.

Article VI.

Tax Administration.

Sec. 601. Assessor. There shall be established a division of assessment, the head of which shall be the Town Assessor. The Town Manager shall have exclusive authority with respect to the appointment and firing of the Town Assessor. The Town Assessor, appointed as hereinbefore provided, shall exercise the same powers and be subject to the same duties and liabilities that similar officers of the several towns and cities in the

State may exercise, and may now or hereafter be subject to, under the laws of the State of Maine.

Sec. 602. Board of Assessment Review; appointments; vacancies. There shall be a Board of Assessment Review to consist of five (5) members who shall be appointed by the Town Council, for a term of three (3) years. All members shall be appointed for terms of three (3) years or until their successors are duly appointed and qualified. ~~No member of the Board of Assessment shall be eligible for appointment to more than two consecutive terms.~~ Compensation, if any, to such members shall be determined by the Town Council. Vacancies in the membership of such board shall be filled by appointment by the Council for the unexpired term. For purposes of this section, appointment to an unexpired term of less than eighteen (18) months shall not be considered a term.

Sec. 603. Board of Assessment Review; powers and duties. The Board of Assessment Review shall have the power to:

603.1 Review, on complaint of property owners, and revise assessments for the purpose of taxation of real and personal property within the Town limits made by the Town Assessor;

603.2 Administer oaths;

603.3 Take testimony;

603.4 Hold hearings;

603.5 Adopt regulations regarding the procedure of assessment review.

Article VII.

Municipal Development.

Sec. 701. Planning Board. There shall be a Town Planning Board which shall be appointed, have such powers and perform such duties as are provided by the laws of the State of Maine and the ordinances duly adopted by the Council. ~~No Members of the Planning Board shall be eligible for more than two~~ three consecutive three-year terms, except as otherwise provided by the laws of the State of Maine. For the purposes of this section, an appointment as an alternate member or an appointment to an unexpired term of less than 18 months shall not be considered a term.

Sec. 702. Zoning ordinance. There shall be a zoning ordinance as provided by state law.

Sec. 703. Board of Zoning Appeals. There shall be a Board of Zoning Appeals which shall be appointed, have such powers and perform such duties as are provided

by the laws of the State of Maine and ordinances duly adopted by the Council. ~~No~~ Members of the Board of Zoning Appeals shall be eligible for more than two three consecutive three-year terms, except as otherwise provided by the laws of the State of Maine. For the purposes of this section, an appointment as an alternate member or an appointment to an unexpired term of less than 18 months shall not be considered a term.

Sec. 704. Long Range Planning Committee. There shall be a Long Range Planning Committee which shall be appointed, and have such powers and perform such duties as are provided by the laws of the State of Maine and ordinances duly adopted by the Council. Members of the Long Range Planning Committee shall be eligible for three consecutive three-year terms. For the purposes of this section, an appointment as an alternate member or an appointment to an unexpired term of less than 18 months shall not be considered a term.

Article VIII.

Nominations and Elections.

Sec. 801. Municipal elections. The regular election for members of the Town Council and the School Board shall be held on the second Tuesday in June. The Council may, by resolution, order a special election ~~at any time~~ to fill vacancies in the Council or for any other lawful purpose provided that, except for a state required school budget validation referendum, such special election may not be held less than sixty (60) days before or sixty (60) days after a regular municipal election or state election. If the Town becomes a member of a regional school unit, the election for members of the school board for the regional school unit shall be held in accordance with the Reorganization Plan and the laws of the State of Maine.

Sec. 802. Nomination. Registered voters of the Town, ~~regardless of whether they be political caucus nominees or unenrolled voters,~~ shall be nominated for the Council or School Board by use of nomination papers in accordance with the State Statutes governing Town elections. In no event shall a candidate's political affiliation appear on the Town ballot.

Sec. 803. Municipal elections. Provisions of the laws of the State of Maine relating to the qualifications of electors, registration, the manner of voting, the duties of election officers and all other particulars respective to preparation for, conducting and management of elections, so far as they may be applicable, shall govern all municipal elections, except as otherwise provided in this Charter.

Sec. 804. Voting places. The voting places established for state elections shall be established for municipal elections.

Sec. 805. Election officials. The Town Council shall annually appoint a warden and a ward clerk, in addition to the regular ballot clerks, for each voting place.

Article IX.

Initiative and Referendum.

Sec. 901. Petition for initiative or overrule of action of Council. The following shall be subject to voter initiative or overrule by referendum as follows:

901.1 All ordinances;

901.2 Orders or resolves authorizing bond issues and/or appropriations in excess of appropriating \$200,000 or more for a single capital improvement, including: buildings; infrastructure improvements or expansion; major equipment; and land;

~~901.3 Orders or resolves authorizing bond issues of \$200,000 or more for capital improvements.~~

If, within ~~20~~ 60 days after the enactment of any such ordinance, order of resolve, a petition signed by not less than 10% of the registered voters of the Town of Falmouth is filed with the Town Clerk requesting its reference to a referendum, the Council shall call a public hearing to be held within 30 days from the date of the filing of such petition with the Town Clerk, and shall within 30 days after said public hearing call a special Town election for the purpose of submitting to a referendum vote the question of adopting such ordinance, order or resolve. Pending action by the voters of the Town, the referred ordinance, order or resolve shall be suspended from operation until it has received a vote of the majority of the voters voting on said question.

Sec. 902. Petition for enactment of ordinances. Not less than 10% of the registered voters of the Town may at any time petition for the enactment of any proposed lawful ordinance by filing such petition, including the complete text of such ordinance, with the Town Clerk. The Council shall call a public hearing to be held within 30 days from the date of the filing of such petition with the Town Clerk, and shall within 30 days after said public hearing call a special Town election for the purpose of submitting to a referendum vote the question of adopting such ordinance, unless prior to the call for said Town election, such ordinance shall be enacted by the Council. Such ordinance shall take effect on the 10th day after the conclusion of such referendum, provided a majority of those voting hereon shall have voted in the affirmative.

Any such proposed ordinance shall be timely examined by the Town Attorney before being submitted to referendum. The Town Attorney is authorized to correct the form of such proposed ordinance for the purpose of avoiding repetitions, illegalities and

Sec. 903. Referendum on Certain Expenditures. The Town Council shall submit any order or resolve appropriating ~~\$400,000~~ \$1,000,000 or more of funds raised pursuant to the Town's power of taxation for a single capital improvement or for a single item of equipment and any order, resolve or ordinance authorizing general obligation bond issues of ~~\$400,000~~ \$1,000,000 or more for capital improvements or for equipment to the voters at a regular or special election following at least one public hearing. These provisions shall apply whether or not payment for the capital improvements or single item of equipment is to be made in more than one fiscal year. The question shall be submitted to the voters at the next regular municipal election held not less than 30 days after the order, resolve or ordinance is passed; or the Council may order that the question be submitted to the voters at a special election to be held not less than 30 days from the date of the order, resolve or ordinance. In order for the question to be passed, a majority of votes cast must favor passage and the total number of votes cast for and against the question must equal or exceed 10% of registered voters.

903.2 Land acquisition shall be considered a capital improvement for purposes of this Charter but preliminary studies, designs, surveying, testing and similar activities that are undertaken prior to the acquisition of land or the construction or rehabilitation of a project shall not be considered capital improvements for purposes of this Charter.

“Shall the ordinance, order or resolve entitled
‘.....’ be repealed?
(or adopted?)”

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statement of the reason or reasons for recall and the names of the recall committee. Each petition shall be limited to the recall of a single individual.

905.1 The recall committee shall have 30 days from the date of issuance of appropriate petition blanks to cause the petition to be signed by 2510% of the ~~qualified number of registered voters of the Town~~. The petition shall be signed in the presence of the Town Clerk or of a ~~qualified voter~~ registered voter of the Town who shall certify to the validity of the signatures collected. Within 10 days after the circulation period ends the Town Clerk shall certify to the Town Council as to whether the petition has been signed by not less than 2510% of the ~~qualified number of registered voters~~. Should less than 2510% of such voters sign the petition, the petition shall have no further force or effect, and no new petition action for recall of the same person can be initiated until 180 days from the end of the previous filing period.

905.2 Upon receipt of certification the Town Council shall within ~~30~~ sixty (60) days submit to the voters the question of recall. The Councilor, School Board member or other elected official shall be recalled when a majority of those voting thereon have voted in the affirmative. Any elected official against whom recall proceedings have been initiated may continue to hold office until recalled and shall have the privilege of seeking election to the same or any other office at any election after the date of recall.

Article X.

General Provisions.

Sec. 1001. Repealed 2008 ~~Repealing clause.~~ ~~All acts and parts of acts of the private and special laws of Maine relating to the Town of Falmouth, inconsistent with the provisions of this Charter, are repealed. (superseded.)~~

Sec. 1002. Separability clause. If any portion of this Charter shall be held to be invalid, such decision shall not affect the validity of the remaining portions thereof.

Sec. 1003. Short title. This Charter shall be known and may be cited as the "Council-Manager Charter of Town of Falmouth." The Clerk shall cause it to be printed and made available to the public promptly.

Sec. 1004. Existing contracts not invalidated, unless inconsistent. All rights, actions, proceedings, prosecutions and contracts of the Town or any of its departments, pending or unexecuted when this Charter goes into effect and not inconsistent herewith shall be enforced, continued or completed in all respects as though begun or executed hereunder.

Sec. 1005. Repealed 2008 ~~Summons before Town Council.~~ ~~The clerks of the Supreme Judicial and Superior Courts may issue summons for witnesses to attend and~~

~~produce books, documents and papers at any meeting of the Town Council for the Town of Falmouth at which a hearing is had in any matter regarding any alleged dereliction, which summons shall be served as required to be sufficient in matters before the Supreme Judicial or Superior Courts. On complaint of failure to obey summons to the Maine Superior Court which court is expressly given jurisdiction to hear such complaints, said court if it finds failure to obey said summons to be without reasonable excuse, shall impose a fine of not less than \$10 nor more than \$100, or by imprisonment for not more than 30 days, or by both. All rights of appeal are to be available as exist in the general laws of the State of Maine.~~

Sec. 1006. Oath of office. Every officer of the Town shall, before entering upon the duties of the office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the Town Clerk.

“I solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of Maine; that I will, in all respects, observe the provisions of the Charter and ordinances of the Town of Falmouth, and will faithfully discharge the duties of the office of”

Sec. 1007. Ordinances not inconsistent continue in force. All ordinances of the Town of Falmouth in force at the time when this Charter takes effect, not inconsistent with the provisions of this Charter, shall continue in force until amended or repealed.

Sec. 1008. Repealed. 1998.

Sec. 1009. Conflicts of Interest. Any elected official, employee or member of a Town board, commission or committee who violates or causes a violation of state law relating to conflicts of interest shall be guilty of malfeasance in office or position and shall forfeit said office or position. Violation of this section with the knowledge of the person or corporation contracting with or making a purchase or sale to the Town shall, at the option of the Town, render the contract or sale voidable.

Minority Report on change to Council Appointments

As the three members of the Charter Review Commission who voted not to change the Appointment of the Assessor from the Council to the Manager (4 for, 3 against & 1 abstaining), we are writing this minority report to explain the dissenting view.

Over forty years ago when the original charter was written, the position of Town Assessor was made an appointment of the Town Council along with the Town Manager and Town Attorney. This method of appointment eliminates the possibility of pressure from one person regarding the assessments of property. It also provides for the separation of management relative to the expenses of the town and revenues via property tax values. Moreover, for the most part, this appointment and supervisory process seems to have worked well for many years.

Since the beginning of the council/manager form of government, the taxpayers of Falmouth have had this protection built into the charter even if we haven't needed it. As an appointment of the Town Council, the Assessor position would have the protection of needing a majority of seven rather than just one regarding any potential political pressures.

If the charter is changed as proposed, the Town Council will still appoint, supervise and evaluate the Town Manager and the Town Attorney. If the Town Council is qualified to perform these duties it is difficult to understand why a position as important as the town assessor would not warrant the same council authority.

As the minority on this issue, we recommend the council place the Assessor appointment on the ballot as a second and separate question. This action would allow the voters of Falmouth the ability to decide whether a charter change is advisable.

Respectfully submitted
Steve Walker, Tim O'Donovan and William Lunt III
Charter review commissioners

Ballot Questions

FIRST CHARTER MODIFICATION QUESTION

Shall the Town approve the Charter modification recommended by the Charter Commission and summarized below?

Summary

- Section 202 is amended to create an exception to the current prohibition on Town employees serving on the Town Council for on-call non-ranking firefighters and fire police. This amendment would not change common law limitations on a Town Councilor's participating in matters that affect the Councilor's interests as an employee of the Town, e.g., salary and benefits.
- Section 204.4 is amended to authorize the Town Council to make inquiries into the functioning of Town offices, agencies and departments without beginning a formal investigation.
- Section 208 is amended to require that any communication with the Council concerning the re-zoning of land must be available to the public and discussed in public.
- Section 213 is amended to delete the Falmouth Memorial Library from the list of places where proposed ordinances must be posted. Copies are available and posted at the Town Hall. It also requires that the wording of proposed ordinances be published in print and that documents considered by the Town Council be made available to the public. It also allows documents to be made available to the public electronically.
- Section 215 is amended to require the Town Council to appoint three or more of its members as a finance committee which will review the annual audit and make a report and recommendations to the Council and the Town Manager on financial procedures and controls.
- Section 303 is amended to clarify the process for designating someone to act in the Town Manager's stead when the Manager is temporarily absent or disabled.
- Section 510 is added to the Charter to make it clear that school budgeting may be governed by State law if the Town becomes part of a regional school unit.
- Section 602 is amended to remove the term limits for members of the Board of Assessment Review, which by ordinance also serves as the Sewer Appeals Board.
- Section 701 is amended to change the number of consecutive terms that a Planning Board member may serve from two to three.
- Section 703 is amended to change the number of consecutive terms that a Board of Zoning Appeals may serve from two to three.
- Section 704 is added to the Charter to create a Long Range Planning Committee that will have the duties assigned to it by ordinance and statute.
- Section 801 is amended to require that special municipal elections be held not less than 60 days before or 60 days after a regular municipal election. This limitation would not apply to State required school budget referendums. It also provides that, in the event that school district consolidation is enacted by the voters, the elections for school board shall be held in accordance with State law.

- Section 901 is amended to give further definition to the term “capital improvement” so as to include buildings, infrastructure improvements and expansions, major equipment and land. It also changes from 20 days to 60 days the time period within which to gather signatures on a petition to overrule Town Council approval of a bond issue or appropriation in excess of \$200,000 for a single capital improvement.
- Section 903 is amended to raise from \$400,000 to \$1,000,000 the threshold amount for single item expenditures and for bonding which must be submitted to referendum and to establish a minimum voter participation in the referendum of 10% of the registered voters in the Town.
- Section 903.1 is amended to clarify that State law on resubmitting defeated bond issues to the voters in a regional school unit will control that issue if the Town becomes a member of a regional school unit.
- Sections 905.1 and 905.2 are amended to reduce the number of signatures required on a recall petition and to require the recall election to be held within 60 days of receiving certified petitions.
- A number of non-substantive modifications are made to provide internal consistency; to remove obsolete language; and to clarify the intent of various provisions.

SECOND CHARTER MODIFICATION QUESTION

Shall the Town approve the Charter modification recommended by the Charter Commission and summarized below?

Summary

- Section 204.1 and section 601 are amended to change the appointing and supervising authority for the position of Assessor from the Town Council to the Town Manager.

Daniel Amory*
Harry R. Pringle*
Richard A. Spencer*
Gerald M. Zelint
Ronald N. Ward*
David J. Backer*
John S. Kaminski*
William L. Plouffe*
Jerrol A. Crouter*
Michael E. High*
Richard A. Shinay*
Bruce W. Smith*
Gary D. Vogel*
E. William Stockmeyer*
Benjamin E. Marcus*
Melissa A. Hewey*†
Eric R. Herlan*†
Jeanne M. Kincaid*†
Gregory W. Sample*
Daniel J. Rose*†
Kaighn Smith, Jr.*
Daina J. Nathanson*
Edward J. Kelleher*
S. Campbell Badger*
Melissa L. Cilley◇
Amy K. Tchao*†
David S. Sherman, Jr.*
Robert P. Nadeau*
Catherine D. Alexander*
Brian D. Willing*
John Lisnik, Jr.*†
Aaron M. Pratt*†
James C. Schwollenbach*†
Elizabeth D. McEvoy*
Jeffrey T. Piampiano*
Peter G. Felmly*
Jessica M. Emmons*
Jonathan M. Goodman*
Abigail Greene Goldman*
Amy J. Visentin*
Sara S. Hellstedt*

Consultants

Roger P. Kelley
Labor Relations &
Conflict Management

Ann S. Chapman
Policy & Labor Relations

Christopher P. O'Neil
Governmental Affairs

Michael J. Opuda Ph.D.
Special Education

Of Counsel

Harold E. Woodsum, Jr.*
Hugh G. E. MacMahon*
Joseph L. Delafield III*
Robert L. Gips*
Donald A. Kopp*

* Admitted In Maine
† Admitted In New Hampshire
◇ Admitted in Missouri

September 9, 2008

Richard P. Olson, Esq.
Chairman, Charter Review Commission
Town of Falmouth
271 Falmouth Road
Falmouth, ME 04105

RE: Opinion on Proposed Charter Revision

Dear Richard:

This opinion is being submitted to you pursuant to the provisions of 30-A M.R.S.A. § 2103(5)(D)(4). That statute requires the Charter Review Commission's final report to include a written opinion from an attorney admitted to the bar of Maine that the proposed charter revision does not contain any provision prohibited by the United States Constitution, the Constitution of Maine or the general laws.

I am an attorney admitted to the bar of Maine. After reviewing the proposed Charter revision included in the Commission's final report adopted on September 9, 2008, it is my opinion that it does not contain any provision prohibited by the United States Constitution, the Constitution of Maine or the general laws.

Very truly yours,



William L. Plouffe

WLP/emt