



Memorandum-10

To: Amherst Charter Commission
From: Charter Project Team, Edward J. Collins, Jr. Center for Public Management
Date: December 29, 2016
Topic: Notes for DRAFT Executive, Legislative, and Citizen Relief Articles

Overview:

Following the Commission’s vote to explore a mayor-council form of government with robust citizen relief mechanisms, we have put together DRAFT articles for executive, legislative, and citizen relief mechanisms for the Commission to review.

Before Commissioners begin to review these articles, a few general comments for some overall context:

1. The articles provided are one of several “standard” versions of this form of government. We would encourage Commissioners to review the other examples we are providing links to. If there are other standard versions that the Commission feels would serve as a better baseline, we are happy to switch the working document over to it.
2. The Commission can change both the substance and style as it sees fit (and we encourage Commissioners to make suggestions to do so).
3. In particular, as the Commission gets into the weeds of the text, there are opportunities for creativity in bringing in new ideas that support the values and principles the Commission has identified, or that accomplish other goals Commissioners want to address.
4. Throughout these draft articles provided now, only some of the bigger decisions are highlighted. It is important to note that these are NOT the only decisions the Commission will need to make. They represent what we thought was a good first wave of decisions to tackle. Every section, sentence, and word is in fact a decision point, and if Commissioners do not like something in the text, we can revisit it and look at alternatives (or, if appropriate, simply delete it).
5. As noted, all of this is iterative, and all of these decisions can be revisited later on, if the Commission changes its mind or if later decisions merit revisiting of any the ones addressed now.

Some brief notes on the specific decisions flagged in the DRAFT articles for the first wave of decision-making are included below. We will walk the Commission through all decision points and will be happy to provide additional information to support such decisions along the way.

First wave of legislative decisions:

Size of council: This decision ties closely with the questions of number of at-large and district councilors that follow. In Massachusetts, the smallest council is 7 (Medford) and the largest is 24 (Newton),

although Newton has a charter commission actively considering halving that number to 12, which, if passed, would make the largest council in Massachusetts 15 members (Waltham and Holyoke). The two most common sizes in Massachusetts appear to be 9 and 11.

Number of at-large councilors and number of ward councilors: It is most common in Massachusetts for councils to have a mix of at-large and district councilors. One municipality (Barnstable) has all district councilors, and about a dozen have all at-large councilors.

Number of wards: Although ward lines need to follow the existing precinct lines, wards can be exactly 1 to 1 with precincts, or they can encompass multiple precincts. This could allow either for smaller districts or for larger districts to be represented by multiple councilors.

Length of council term: Most council terms in Massachusetts are 2 years, but there are some that are 4 years and potentially even a few with 3-year terms.

Length of council president term: The decision here is whether the president's term will last for the full length of the council's term, or whether it will be shorter.

Length of "cooling off period" prohibiting service: Many charters prohibit former councilors from becoming employees of their municipality for some period after their council service.

Waiver of prohibition on service: Some charters allow a majority or supermajority to waive the post-council employment prohibition.

Majority or super-majority for compensation increases: Different charters require different numbers of votes to increase council compensation, and some set timeframes within a term that such a vote can take place. Regardless, it is important to note that all charters mandate an intervening election before a council compensation increase can take effect.

Number of members to call special meeting: The charter can set the number of members that call a special meeting, in order to provide alternative mechanism to the council president calling a meeting.

What positions, if any, are appointments of the council: Some charters provide for the council to appoint certain positions. Beyond a clerk of the council, which is always an appointment of the council (and can be the city/town clerk him/herself), the most common are city clerk and city auditor/town accountant.

What appointments of the mayor, if any, require approval of the council and what does that approval require: Many charters give the council approval authority over some subset of mayoral appointments. That could be certain department heads (most commonly major departments like police and fire), it could be all department heads, or it could be appointments to some or all multiple-member bodies. The approval could be in the form of requiring an affirmative vote, or it could be simply that the council could, by a negative vote, veto a mayoral appointment. There is a great deal of room for the Commission to create a balance of power that feels best for Amherst by mixing and matching within these options.

Will vacancies be filled by the council itself, by highest losing vote-getter, by special election, or by some combination, depending on time left: There are three primary methods for filling council vacancies: (1) the council can select someone to fill the vacancy, (2) the vacancy can be offered to the losing candidate who received the most votes in the most recent election for the seat, or (3) there can be a special election. The charter also specifies at what point in the term which methods are used. For

example, frequently charters will not call for special elections for vacancies that occur within the final six months or year of a council term.

First wave of executive decisions:

Length of term: The most common mayoral term in Massachusetts is 2 years, but the trend is for municipalities to move from 2 to 4 years. There have been a few municipalities that have had 3-year mayoral terms.

Majority or super-majority: As with council compensation, different charters require different numbers of votes to increase mayoral compensation, and some set timeframes within a term that such a vote can take place. Regardless, it is important to note that all charters mandate an intervening election before a mayoral compensation increase can take effect.

Length of “cooling off period” prohibiting service: As with the council cooling off period, many charters prohibit former mayors from becoming employees of their municipality for some period after their council service.

What positions are appointments of the mayor: Most appointments in mayor-council municipalities are appointments of the mayor (with potential council approval needed, as discussed above). This decision works in conjunction with the decision about council appointments.

Number of members to declare acting mayor: The charter may provide for the number of councilors needed to declare the mayor incapacitated. Not all charters include this.

Number of months *and* at what month the acting mayor is left in place: The charter should specify how many months into the mayor’s term a special election be called to fill the position, and at what point is the acting mayor left in place for the remainder of the term.

Citizen relief mechanism decisions:

We will be providing information on the citizen relief mechanisms at a later date and will spend time walking the Commission through these sections, since they can be quite technical.